1		ATES DISTRICT COURT
2	EASTERN D	ISTRICT OF NEW YORK
3		X
4	UNITED STATES OF AMERICA,	: 14 CR 00026 (ARR) U.S. Courthouse Brooklyn, New York
5	VINCENT ASARO,	: November 6, 2015
6	Defendant	.: 10:00 o'clock a.m.
7		X
8	TRANSCRIPT OF	TRIAL NORABLE ALLYNE R. ROSS
9	SENI OR UNI TED	STATES DISTRICT JUDGE, and a
10	j ury.	
11	APPEARANCES:	
12	For the Government:	ROBERT L. CAPERS United States Attorney
13		By: NI COLE ARGENTI ERÍ ALI CYN L. COOLEY
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20		
21	Court Reporter:	Anthony M. Mancuso 225 Cadman Plaza East
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23		
24	Proceedings recorded by mecha produced by CAT.	ni cal stenography, transcri pt
25		

Summation - Cooley	3463

1	(Trial resumed.)	
2	(In open court; jury not present.)	
3	THE COURT: PI ease be seated.	
4	Is everyone ready?	
5	MS. COOLEY: Yes, your Honor.	
6	MS. MACEDONIO: Yes, your Honor.	
7	THE COURT: Ask the jury to come in, please.	
8	(Jury present.)	
9	THE COURT: Please be seated.	
10	Good morning, ladies and gentlemen.	
11	As I indicated, we will now proceed with the	
12	summations.	
13	The government summation is first.	
14	Ms. Cooley.	
15	MS. COOLEY: Thank you, your Honor.	
16	May we also have the overhead?	
17	Thank you.	
18	A few weeks ago, at the start of this trial,	
19	Ms. Gerdes told you in our opening statement how the	
20	defendant, Vincent Asaro, committed murder and countless other	
21	crimes as part of his life in the Mafia. In the past few	
22	weeks, through witness testimony and volumes of evidence,	
23	you've seen those crimes replayed before your eyes	
24	We have shown you how, for forty-five years, the	
25	defendant participated in the criminal affairs of the Bonanno	

- 1 Organized Crime Family. He lived by and he personally
- 2 enforced the Mafia's code, "Death before dishonor," and he
- 3 rose through the ranks of the Bonanno Family by proving
- 4 himself time after time as a tried and true earner, the
- 5 ultimate tough guy, a wiseguy to be feared.
- In those forty-five years, the defendant put money
- 7 in his own pocket while enriching and protecting his Crime
- 8 Family. He did that through murder, through robbery, arson,
- 9 extortion, loan-sharking and gambling.
- 10 At the time of his arrest a few years ago, the
- 11 defendant stood a leading captain of the Bonanno Family, with
- 12 a lifetime of Mafia experience under his belt, a score card of
- 13 the most ruthless and violent crimes. The defendant had the
- 14 younger generations of the Bonanno Family at his beck and
- 15 call, ready and willing to do his bidding.
- 16 For his years and years of criminal activity, today
- 17 the defendant stands charged with several crimes.
- 18 Count One charges the defendant with racketeering
- 19 conspiracy. I'm going to get to that in a minute.
- Now, during the summation, I'm going to go through
- 21 the evidence we presented, and show you exactly how we proved
- 22 this case beyond a reasonable doubt. I will go through some
- 23 of the testimony, citing specific portions to you, and I'll
- 24 review some of the many exhibits we offered in evidence,
- 25 including photographs, surveillances, audio recordings and

1 physical evidence.

- 2 At the end of the day, you will see that all of the
- 3 evidence in this case, taken as a whole, proves the defendant
- 4 Vincent Asaro guilty beyond a reasonable doubt.
- 5 So, let's turn to Count One, racketeering
- 6 conspiracy. Count One of the indictment charges the defendant
- 7 with RICO conspiracy or racketeering conspiracy. And the
- 8 crime of racketeering conspiracy has four elements. Now,
- 9 after I've had a chance to talk to you today and the defense
- 10 has had their chance to talk to you, the judge will instruct
- 11 you on the law that applies. I expect that Judge Ross will
- 12 spend some time explaining the racketeering law generally, and
- 13 then she will instruct you specifically on racketeering
- 14 conspiracy, which is the crime charged here.
- As the judge will explain, there are four elements
- 16 to RICO conspiracy. The first element is that the evidence in
- 17 this case will be required to show that the charged
- 18 enterprise, the Bonanno Organized Crime Family, existed, and I
- 19 submit to you that the evidence in this case shows there can
- 20 be no dispute that the Bonanno Family exists. We have proven
- 21 what the Bonanno Family is and who is in it through the
- 22 testimony of the people who know it best, those who lived that
- 23 life.
- 24 First, you heard from Sal Vitale, former underboss
- or second in command of the Bonanno Family. He explained to

- 1 you what La Cosa Nostra is, Our Thing, or the Mafia, made up
- 2 of five families in New York City, one of which is the
- 3 Bonannos. Vitale told you that he committed countless crimes
- 4 for the Bonanno Organized Crime Family, including murder. And
- 5 he knew the Family inside and out from the '60s and '70s, when
- 6 he was an associate to when he was a made member in the mid
- 7 '80s, an underboss in the '90s the 2000s.
- 8 Now, one thing Vitale explained that you heard
- 9 confirmed by other witnesses is what's required for someone to
- 10 get inducted into an Organized Crime Family or become a made
- 11 member or a soldier or a goodfella or a wiseguy. Not only do
- 12 you have to be a man, an Italian, but you also have to prove
- 13 yourself as either a shooter or an earner. The purpose of the
- 14 Mafia is to make money by any means necessary, so the Mafia
- 15 and the Bonanno Family specifically wanted members who were
- 16 willing to kill for the Family, to protect its members and its
- 17 money, and settle its disputes. They also needed members who
- 18 could keep the money flowing in from all kinds of crimes, guys
- 19 known as earners.
- 20 Sal Vitale testified about how you had to prove
- 21 yourself as a shooter or an earner in order to get made.
- 22 "QUESTION: What's a shooter?
- 23 "ANSWER: A person that could kill somebody.
- "QUESTION: What's an earner?
- 25 "ANSWER: A person that could earn from shylocking

1 numbers, extortion."

- 2 Anthony Ruggiano, Jr., a former associate of the
- 3 Gambino Crime Family, said the same thing at this trial.
- 4 "QUESTION: What are the requirements for being
- 5 inducted into a Crime Family?
- 6 "ANSWER: You had to commit a murder or be a big
- 7 earner, money earner." "
- 8 And Gasper Valenti, a former associate of the
- 9 Bonanno Family, who spent his life in the mob reporting to the
- 10 defendant himself, explained these requirements, too. He told
- 11 you how he tried to prove himself as an earner, most of all to
- 12 the defendant, who he reported to. And he talked about crimes
- 13 like robberies or heists that he committed as a Bonanno Family
- 14 associate with another associate named Joe or Junior Burger in
- 15 the 1960s. Valenti explained that his goal was to show that
- 16 he could earn, which always meant giving a cut to the
- 17 defendant, the guy above him.
- "QUESTION: Who were you giving money to from the
- 19 hei st?
- 20 "ANSWER: Vi nny.
- 21 "QUESTION: Why?
- 22 "ANSWER: Oh, we were kind of -- we were partners,
- 23 but we looked up to him, so that we would move up somewhat,
- 24 showing him that we were earners.
- "QUESTION: What's an earner?

1	"ANSWER: A person that earns money through illicit	
2	whatever, gambling, high-jacking, stealing."	
3	Sal Vitale also explained that the Mafia wasn't	
4	looking to recruit legitimate, law-abiding people. To be a	
5	member, you had to be all street. As he testified: You can	
6	play on the sidewalk and live in the street. You're either	
7	all street or your all sidewalk. You can't you can have a	
8	business, but if the Family calls, you gotta go."	
9	You also heard these witnesses explain the rules of	
10	the mob. All of them testified about an especially important	
11	rule: To never cooperate with law enforcement, never talk to	
12	the police, and the consequence for breaking that rule, death	
13	Sal Vitale testified: You can't meet with any law	
14	enforcement. If you're meeting with any kind of law	
15	enforcement, we have the right to kill you.	
16	Anthony Ruggi ano testi fi ed:	
17	"QUESTION: In organized crime, is there a rule	
18	about cooperating with law enforcement?	
19	"ANSWER: Yes.	
20	"QUESTION: What's the rule?	
21	"ANSWER: You're not supposed to do it.	
22	"QUESTION: And what's the penalty for violating	
23	that rule?	
24	"ANSWER: Death."	

ANTHONY M. MANCUSO, CSR OFFICIAL COURT REPORTER

Sal Vitale also told you about the process of

25

1 getting inducted into the Bonanno Organized Crime Family. He

- 2 explained to you what proposal lists are. He told you how the
- 3 leaders of the Family drew them up.
- 4 He testified: So, if an individual who is a
- 5 goodfella or a made member dies, I put his name on the list.
- 6 Then I put next to him the person who we want to replace him
- 7 with, the other name, and make four copies, and I give them to
- 8 the other four families."
- 9 You saw actual proposal lists from the Bonanno
- 10 Family and other crime families with names listed of Bonanno
- 11 Family associates being proposed to get made. To start, you
- 12 saw Government's Exhibit 700-A. This was the list which former
- 13 NYPD Detective Joe Rauchet seized in 1978 in the location
- 14 associated with John Gotti, Jr. This is at page 1788 of the
- 15 transcript. And you know that individual to be a made member
- 16 of the Gambino Crime Family.
- 17 Who was on that list as candidates for induction
- 18 into the Bonanno Family? Jerome or Jerry Asaro on the bottom
- 19 right, the defendant's son. Vincenzo D'Antoni, named Vinny
- 20 the Dye Maker, and Vito Grimaldi, among others. You've Vito
- 21 Grimaldi in various surveillances of the defendant's social
- 22 club in the '90s.
- 23 You know from Sal Vitale's and Gasper Valenti's
- 24 testimony that Jerry Asaro, D'Antoni and Grimaldi all were
- 25 eventually inducted into the Bonanno Family, and you also

1 heard testimony from witnesses like former Detective Gerard

- 2 LaRocco, who saw D'Antoni and Grimaldi hanging out with the
- 3 defendant Vinny Asaro at the Triangle shop, his social club in
- 4 the '90s.
- 5 You saw proposal lists that Sal Vitale provided to
- 6 the government as part of his cooperation, including
- 7 Government's Exhibit 701-F.
- 8 There is a proposal list that contains two
- 9 candidates who Jerry Asaro proposed, Anthony Valenti and John
- 10 Carlucci. That J to the right of their names means Jerry
- 11 Asaro proposed them, and you know that Anthony Valenti goes by
- 12 the nickname Fat Sammy and is Gasper Valenti's son. You know
- 13 Johnny Carlucci goes by the nickname Johnny Phones, and you
- 14 know that they were with Jerry when they were associates and
- 15 later got inducted into the Family, because you heard the
- 16 defendant complain on recordings to Gasper Valenti that Jerry
- 17 had straightened them out, guys the defendant thought had done
- 18 nothing criminal before to prove themselves, and had no right
- 19 being in the Mafia.
- 20 Government's Exhibit 701-G is another proposal list
- 21 that Vitale testified about. And on this list is Jackie
- 22 Bonventre from Queens. You know that's Jackie, who Gasper
- 23 Valenti told you ended up getting made in the Bonanno Family
- 24 later, in the 2000s, became Jerry Asaro's acting captain,
- 25 standing in for him when Jerry was in jail. You heard Valenti

1 talking to Bonventre on tape about the sports betting illegal

- 2 gambling business they had together, and we're going to talk
- 3 about that more later on. You even heard from the defendant
- 4 himself in a recording from March 8, 2013, Government's
- 5 Exhibit 241-D, saying that Jackie was offered the position of
- 6 consigliere, the advisor to the family, one of the top
- 7 leadership positions on the Crime Family's administration.
- 8 But Jackie turned it down, because he didn't want to part ways
- 9 with Jerry Asaro, who he reported to and was close with.
- 10 And why is the other candidate, Peter Lovaglio from
- 11 New Jersey, important? He was one of the men present, along
- 12 with the defendant and other leaders of the Bonanno Family,
- 13 including Vito Grimaldi, at a December 28, 2012 meeting at a
- 14 diner in Staten Island. As probation officer, Bob Anton
- observed, at approximately 1:06 p.m., he saw Mr. Vincent Asaro
- 16 enter that diner.
- 17 "QUESTION: And who was there?
- 18 "ANSWER: There were several people there. Thomas
- 19 DiFiore, Vito Grimaldi, Mr. Chilli, meaning Jerry Chilli,
- 20 Peter Lovaglio and so forth. This is how the five families
- 21 add new members.
- The leaders of each family get to see the list and
- 23 veto someone who they have a problem with, maybe someone with
- 24 ties to law enforcement who might turn out to be an informant,
- 25 what the Mafia often calls a rat, and jeopardize all five

- 1 families that way.
- 2 As Vitale explained, The other four families have a
- 3 right to deny a name that I put on that list. If they know an
- 4 individual -- maybe he was a cop, maybe he was in the police
- 5 academy, maybe they have a line on him that he's half a rat --
- 6 that is the kind of person that would get vetoed and not
- 7 inducted. So, through this process, the families get to look
- 8 after their own interests and protect the Mafia as a whole.
- 9 And Sal Vitale told you about what comes next. Once
- 10 an associate makes the cut to get made, the next step is the
- 11 Crime Family's induction ceremony, which Vitale participated
- 12 in when he got made and later conducted himself. He testified
- 13 about how members have to take an oath during that ceremony.
- 14 They had to say, In the name of the Bonanno Family, we lock
- 15 this network in secrecy.
- 16 As Vitale explained, induction means you are in it
- 17 for life.
- 18 "QUESTION: After a soldier is inducted in the Crime
- 19 Family, is there a way out?
- 20 "ANSWER: No."
- Now, through the testimony of Vitale, Valenti and
- 22 other associates of organized crime, including Peter Zuccaro
- 23 and Anthony Ruggiano, you heard not just the formal rules of
- 24 the mob, rules they all told you can and often are broken, but
- 25 also about the day-to-day life for its associates. They told

1 you about the constant pursuit of money and about the violence

2 that came with the territory of being an associate of La Cosa

3 Nostra.

4 They told you how associates fell at the bottom of

5 the Mafia's hierarchy, underneath the soldiers who reported to

6 the captains, who themselves reported to the administration,

7 with the boss at the very top, the hierarchy that applied

8 equally to the Bonanno Family and the other four families in

9 the Mafia in New York, the Gambinos, the Columbos, the

10 Luccheses and the Genoveses or the West Side.

These cooperating witnesses were all associates of

12 organized crime, and they told you about what it means to be

13 an associate. It means doing the dirty work, being in the

14 streets making money, committing crimes, using violence, while

15 the soldiers, captains and those in the administration are

16 insulated. Because they are made, they don't have to fight in

17 the same ways as associates to prove they can earn or kill,

18 and they are more protected from getting caught by law

19 enforcement, especially because their associates know not to

drop their names every time the associates commit a crime in

21 the streets.

20

24

These witnesses also told you about what it means to

23 be on record, what it means to be with someone, what it means

to report to someone, what it means to be part of a soldier's

25 crew. Their testimony was just one way we proved to you the

- 1 existence of the Bonanno Crime Family.
- 2 You may remember the volumes, the photos and even
- 3 videos we showed you from decade after decade of surveillances
- 4 by the FBI and other law enforcement agencies. The reason
- 5 those were important is, they showed how, year after year, the
- 6 Bonanno Organized Crime Family continued to exist and prosper.
- 7 Their traditions stayed intact. The same people showed up
- 8 year after year at social clubs, at important Mafia events
- 9 like wakes, and at meetings to conduct crime business.
- 10 As one of many examples, here is a group of Bonanno
- 11 Family members and associates, including the defendant in the
- 12 center of the photo wearing the white short-sleeved shirt,
- 13 outside the entrance of the Bonanno Family social club at
- 14 69-64 Grand Avenue in Maspeth, Queens, and he's in
- 15 conversation with other Bonanno Family members, like Anthony
- 16 Mannone and James Tartaglione.
- 17 As another example, a year later, in the same
- 18 location, that's the defendant in the top-left corner that's
- 19 circled in red, outside the entrance of that social club,
- 20 speaking privately with Bonanno Family member Anthony Urso or
- 21 Tony Green, the man in the white hat and the black jacket.
- 22 As you heard FBI Special Agent Jack Stubing explain,
- 23 later that day, that social club on Grand Avenue was raided by
- 24 the FBI pursuant to a search warrant. The defendant had left
- 25 in time to avoid that surprise, but as you can see in the

photo on the bottom right, some of the same people were inside

2 when the club got raided.

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- The agents arrived to find a table full of Bonanno
- 4 Family members and associates mid-meeting, including Sal
- 5 Vitale himself at the head of the table, Tony Green in that
- 6 same white hat, and associate Joe Marsala, who you heard
- 7 reported to the defendant in the early 1980s before getting
- 8 reassigned to then-captain Joe Massino after he complained
- 9 about the defendant. Through all of this evidence, you know
- 10 the Bonanno Organized Crime Family exists. We've proven the
- 11 existence of the Bonanno Organized Crime Family beyond a
- 12 reasonable doubt.
- The second element the government must prove is that
- 14 the Bonanno Organized Crime Family or its activities affected
- 15 interstate or foreign commerce. You'll hear from Judge Ross
- 16 that a minimal effect on interstate or foreign commerce is
- 17 enough to prove this element, and over the course of this
- 18 trial, we proved that the Bonanno Family committed crimes all
- 19 over Queens, Brooklyn and Long Island.
- 20 You also heard about Bonanno Family crimes,
- 21 including bookmaking, that extended to places outside of New
- 22 York, even overseas, and you've learned about robberies of
- 23 interstate and even international shipments, the robbery
- 24 charged in Racketeering Act Three of the Lufthansa Airlines
- 25 cash and jewelry which was stolen at JFK International Airport

- 1 after coming in from abroad.
- 2 And this slide includes different exhibits that we
- 3 offered in trial. On the left is a Lufthansa document listing
- 4 some of the shipments that were stolen. On the right is a
- 5 document that was actually found -- it's a crime scene
- 6 document that lists documents that were found in the Lufthansa
- 7 heist getaway van. And there's a match between one of those
- 8 Lufthansa documents and one of the shipments on the Lufthansa
- 9 record that you saw, and that's actually a shipment that came
- 10 in from overseas. That's one way that we proved an effect on
- 11 interstate or foreign commerce.
- 12 And you also saw how the gold salts stolen from the
- 13 Federal Express truck relating to the robbery charged in
- 14 Racketeering Act Seven were headed to customers in a number of
- 15 states outside New York, including California, Minnesota and
- 16 Vi rgi ni a.
- 17 For these reasons, we've proven this element beyond
- 18 a reasonable doubt.
- 19 The third element is that the defendant was
- 20 associated with or employed by the Bonanno Family.
- 21 We have called several witnesses, shown you photo
- 22 after photo and played you dozens of recordings that prove the
- 23 defendant's close association with the Bonanno Family. The
- 24 defendant has spent his adult life first as a loyal associate
- 25 and then as a powerful inducted member of the Bonanno Family.

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1	He was born into that life, and he fully embraced it.
2	As Gasper Valenti and Anthony Ruggiano testified,
3	the defendant was a rare breed in the Mafia, a
4	third-generation wiseguy, in the words of Anthony Ruggiano's
5	father, Fat Andy. He followed in the footsteps of his own
6	father and grandfather before him, who were all made men in
7	the Bonanno Family.
8	This is from the testimony of Anthony Ruggiano:
9	"QUESTION: What, if anything, did you and your
10	father discuss about the defendant and his relatives being in
11	organi zed cri me?
12	"ANSWER: That Vinny was a third-generation wiseguy.
13	"QUESTION: What was your father's attitude when he
14	said that about the defendant being a third-generation
15	wi seguy?
16	"ANSWER: He thought it was a great thing.
17	"QUESTION: How, if at all, did that apply to you
18	and your father?
19	"ANSWER: Well, because eventually, I would have
20	became second generation.
21	"QUESTION: If you'd been inducted?
22	"ANSWER: Yes."

something that was expected of the defendant. Vincent Asaro

something to be proud of. But joining the Mafia wasn't just

23

24

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To guide in that life, the defendant's lineage was

2 made, and he wanted the money that came from having a crew of

wanted the power that came with getting his button, getting

- 3 associates below him, reporting to him and kicking up to him
- 4 whatever they made on the street.

- 5 This is a timeline of the defendant's rise to power
- 6 in the Bonanno Family. And you heard from multiple witnesses
- 7 about that rise to power from associate to ultimately a
- 8 leading captain of the Family.
- 9 Gasper Valenti explained to you that the defendant
- 10 started out as an associate reporting to his father, Jerome, a
- 11 powerful soldier in the Bonanno Family. In the '60s and early
- 12 '70s, when the defendant was just an associate of organized
- 13 crime, he proved himself an earner by high-jacking trucks with
- 14 Lucchese Family associate James or Jimmy Burke, and profiting
- off of those crimes and the crimes his own crew of associates,
- 16 like Valenti and Joe Burger, committed in the street.
- 17 Whether it was the sale of swag or merchandise
- 18 stolen during truck highjackings, or the sale of pornography
- 19 for his uncle Micky Severino, then a powerful captain in the
- 20 Bonanno Family, the defendant demonstrated he could earn and
- 21 get those under him, especially Gasper Valenti, to kick up
- 22 whatever they made. And Sal Vitale explained to you when
- 23 you're an associate of organized crime, you're looking to
- 24 become a soldier. That's why you are an associate. And the
- 25 defendant was no exception to that rule. Cut his teeth in the

mob doing highjackings and selling swag with Jimmy Burke, who was around Captain Paul Vario of the Luccheses. (Continued on next page.)

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1 MS. COOLEY: (Continuing) 2 As Gasper Valenti called it, the defendant and Jimmy 3 were partners in crime and they were both out to prove 4 themselves to the men above them in their own crime family. 5 The defendant and Jimmy's spot in the late sixties 6 was a social club called Roberts Lounge on Lefferts Boulevard, 7 a club controlled by the defendant, Jimmy and their close 8 criminal associate, Jimmy Santos and John Savino. 9 The defendant and Jimmy had a network of criminals. 10 They committed hijackings and other crimes with, a network that enhanced their own reputations on the street and kept the 11 12 opportunities for scores or robberies rolling in. 13 And the defendant profited from his relationship 14 with Jimmy Burke in other ways too. As Valenti told you, and 15 as we will discuss a little bit later on, the defendant 16 borrowed money from Jimmy Burke which he then put out on the 17 street as Loansharking Loans. 18 Now, you have heard from a few different witnesses 19 about what it means to be partners in organized crime. 20 example, Anthony Ruggiano told you how his father, Fat Andy 21 Ruggiano, was partners with fellow made member Tony Lee 22 Guerreri and the Gambino Family. 23 Fat Andy and Tony Lee split their criminal profits 24 50/50 and they helped each other rise and thrive in organized 25 They combined efforts and watched each other's backs. crime.

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1 This was an arrangement that worked well for the 2 defendant and Jimmy Burke too. They were two ambitious 3 associates hoping to make their mark in La Cosa Nostra, but 4 with allegiances to different crime families. They could help 5 each other make money and protect each other without having to directly compete with one another in the mob. 6 7 As you heard Anthony Ruggiano explain about his 8 father, Fat Andy, and his partner, Tony Lee, their bond went 9 beyond friendship, beyond business partnership, beyond family 10 They were each other's most trusted criminal ally. even. 11 the life of the Mafia where death had to be dodged and enemies 12 silenced, they relied on each other completely to survive and 13 succeed. 14 And one clear indicator of that was the fact that 15 for son Anthony's confirmation, Fat Andy picks Tony Lee as his 16 son's sponsor. 17 You heard from Father Jose Herrera, you may remember 18 a priest at the Catholic church where Jerry Asaro was 19 confirmed, and he told but the type of person that typically 20 gets chosen to be a confirmation sponsor. He told you it had 21 to be a close relationship, because it's the life of the 22 Sometimes -- most of the times the family chooses a 23 member of the family, a relative as the sponsor, or a closest 24 friend who's a good example for him or her. 25 What kind of good example did Fat Andy, a powerful

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1 soldier in the Gambino Family, a repeat murderer, want for his

- 2 son? Not someone virtuous in the faith necessarily, but his
- 3 closest criminal ally, Tony Lee.
- 4 Tony Lee was going to be a role model in the Mafia
- 5 for Anthony Ruggiano Junior.
- And the exact same thing was true for the defendant
- 7 when it came to his son Jerry Asaro's confirmation. Who did
- 8 he choose as confirmation sponsor? His criminal partner,
- 9 Jimmy Burke.
- 10 And that record book is in evidence as Government
- 11 Exhibit 709. You can look at it during your deliberations,
- 12 physical proof from all the way back to May 1969 of the
- 13 defendant's unbreakable bond with Burke.
- 14 Father Herrera was also asked about confirmation
- 15 names and the fact that Jerry Asaro chose James as his. You
- 16 heard Herrera say, as Catholics, we choose one of the saints
- 17 that we admire. And I see that he has chosen the apostle
- 18 James.
- 19 You know that James Burke was not the kind of
- 20 apostle that Father Herrera had in mind, but Jimmy Burke was
- 21 someone the defendant respected, who he could tell his son to
- 22 model himself after, as a criminal.
- 23 That bond continued into the nineties when Jimmy
- 24 Burke was in jail. On this slide you can see Government
- 25 Exhibit 469 that shows in 1993 Vincent Asaro, the defendant,

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1 visiting Jimmy Burke in prison and also Jerome Asaro visiting

- 2 Jimmy Burke in prison on three separate occasions.
- Now, as an associate of the Bonanno fame, the
- 4 defendant proved himself as more than an earner. He was a
- 5 killer too. By the end of 1969, he had murdered Paul Katz.
- 6 He had shown he could kill when necessary and specifically
- 7 kill to enforce La Cosa Nostra's code of silence.
- 8 Not long after that, in the late 1970s, the
- 9 defendant was inducted into the Bonanno Family. As Gasper
- 10 Valenti testified, the defendant told him in 1977 or '78 that
- 11 his father Jerome and uncle Nickey Zaffarano had proposed him
- 12 for induction. And then once it happened, the defendant told
- 13 Valenti, he'd been formally inducted or straightened out. It
- 14 happened in a mausoleum, a cemetery, a fitting place to get
- 15 made in La Cosa Nostra, that secret society.
- Peter Zucarro also told you about where he was in
- 17 the 1970s when he realized the defendant had gotten
- 18 straightened out. Zucarro testified that he found out the
- 19 defendant had gotten inducted because I was in Little Cricket
- 20 and people told me that they straightened Vinny out. Then
- 21 Tony Muscatello played a song "Wiseguy" in the Cricket.
- 22 Was the defendant there at that time?
- Yes.
- 24 What did you see, if anything?
- I seen a lot of women and guys standing around, and

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1 that's to be like a hush up; nobody's supposed to know that 2 you are an inducted member. But the whole neighborhood knew. 3 From that point on, the defendant's commitment to 4 the mob was official. It was as permanent as the Death Before 5 Dishonor tattoo on his arm. Gasper Valenti explained that he understood this 6 7 tattoo to mean what may already be obvious, that the defendant 8 would rather die before he would dishonor himself. And you 9 saw this same tattoo, not just on the defendant but also on 10 the defendant's own son, Jerry Asaro, and his nephew, Ronnie 11 Giallanzo, who Sal Vitale, Gasper Valenti and Peter Zucarro 12 testified are both made members of the Bonanno Family as well. 13 Over the course of this trial, you have also gotten 14 a window into the defendant's daily life in the Mafia. You 15 heard about where he spent his days and nights and you were 16 introduced to what is called a social club. Gasper Valenti 17 testified about this. 18 What is a social club? 19 A social club is a place for men that we would gamble, take sports bets, plan robberies. 20 21 Is it open to the public? 22 No. 23 Just organized crime?

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You saw that the defendant had many different

Yes, or associates.

24

3485

1 establishments to his name, most of them social clubs, while

2 he was associated with the Bonanno Family. We've already

- 3 talked about Roberts Lounge, his prime hangout in the late
- 4 sixties and seventies. But you also heard about Cafe Anita,
- 5 the defendant's social club in the 1970s and early 1980s.
- The evidence you saw and heard about Cafe Anita gave
- 7 you a snapshot of the defendant's life in the Mafia. Gasper
- 8 Valenti explained, the defendant got that club by partnering
- 9 with Sandro Aioso, an associate of the defendant's uncle
- 10 Mickey, who later was inducted into the Bonanno Family.
- 11 Valenti testified that the defendant started up a
- 12 big card game there, a lucrative activity for the crime
- 13 family, so lucrative that eventually the game shut down after
- 14 about six months because the defendant and Valenti took a
- 15 percentage of every pot. As Valenti testified -- and this is
- 16 Cafe Anita at the intersection of liberty and Forbell.
- 17 You take a percentage out of every pot, so over a
- 18 matter of six months you wind up with, basically, with all the
- 19 money, you know, from taking the percentage out. It was a
- 20 big, big game.
- 21 Big way to make money?
- Big way to make money, exactly. Guys would bet
- 23 their cars, their watches.
- Anthony Ruggiano also testified that he'd been to
- 25 that social club which he remembered as a gambling or

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1 bookmaker's club that was affiliated with organized crime in

- 2 the seventies or the eighties, though he didn't remember its
- 3 name. He said his father Fat Andy went there too.
- 4 And you know that this social club existed and that
- 5 it was the defendant's club from other evidence too. As
- 6 retired FBI agent Fernando Fernandez told you, he saw the
- 7 defendant's car, a 1979 blue Lincoln two-door, by Cafe Anita
- 8 on three different dates in December 1980. And another car he
- 9 saw there on two of those dates was a 1978 blue Chevy,
- 10 registered to Mary Barbarito.
- 11 Gasper Valenti testified that around this time, he
- 12 drove vehicles registered not in his name and that his then
- 13 wife's maiden name was Barbarito.
- 14 This is another piece of the puzzle from which you
- 15 can infer that Gasper Valenti was a regular presence at the
- 16 defendant's social club, Cafe Anita, and was there more than
- 17 once in the early 1980s when the defendant was there.
- 18 Other vehicles Agent Fernandez saw in January 1981
- 19 included one registered to Salvatore Pugliesi, who you heard
- 20 from Valenti and Anthony Ruggiano was a Gambino Family
- 21 associate, and Patrick Dellarusso, an associate of Vinny
- 22 around this time, who Valenti also testified about and who the
- 23 defendant discusses with Valenti many years later on a
- 24 recording from 2011 that's in evidence as Government
- 25 Exhi bi t 232.

3487

1 These clubs weren't residences. They weren't 2 business offices. They were hubs for organized crime 3 activity, places where members and associates of La Cosa 4 Nostra conducted their family business and made money for their crime families. 5 6 This wasn't the defendant's only social club that he 7 controlled and spent days at in the 1980s. He also had a club 8 on 101st Avenue in Queens, in Ozone Park, the one across from 9 the bank, in which FBI agents sat and did their surveillances. 10 Here we see a familiar image of the defendant and 11 Gasper Valenti in the doorway of that club on 101st Avenue. 12 After that, the defendant moved to a different club 13 in Ozone Park, the first of his establishments on what was 14 known in the neighborhood as the triangle, the intersection of 15 a few key streets, including 101st Avenue, Rockaway boulevard, 16 and 87th Street. 17 Multiple Bonanno Family members and associates 18 visited these clubs, the defendant's social clubs, in the 19 1980s and early 1990s, as did men affiliated with other crime 20 families. like the Gambinos. 21 This is the defendant's club a little bit later in 22 the eighties, right next to Astro Fence. Gasper Valenti and 23 Anthony Ruggiano both testified that the defendant had a 24 social club in that building, to the left of Astro Fence on 25 87th Street, visible here in Government Exhibit 124-B.

3488

1 And you heard a lot of testimony from cooperating 2 witnesses and law enforcement witnesses alike, that the 3 defendant had various fence companies in operation throughout 4 the eighties and the nineties, one of which was Astro Fence, 5 the building to the right of the club. These witnesses 6 testified that the defendant's son Jerry was associated with 7 that fence company, former FBI Special Agent Steven Nyman 8 observed Jerry Asaro working in the vicinity of that business 9 in 1982, as one example. 10 And one thing you may remember from the surveillance photographs we showed you and the witnesses who testified 11 12 about surveillances they conducted at the defendant's social 13 club is that Gasper Valenti was there regularly, almost every 14 day in certain months, like a fixture at the side of the 15 defendant. 16 That surveillance evidence showing Valenti 17 photographed with the defendant and occasionally other members 18 and associates of the Mafia at these locations or showing cars 19 that he drove at those locations are consistent with Valenti's 20 testimony about his close relationship with the defendant in 21 those years. 22 You heard from Valenti that he's the defendant's 23 cousin, more than a decade younger than him, and that he and 24 the defendant grew closer after Valenti decided to become an 25 associate of organized crime, an associate of the Bonanno

3489

1 Family around the defendant's father Jerome in the 1960s,

- 2 reporting directly to the defendant.
- This photograph is one that Valenti testified about,
- 4 which shows him and the defendant from sometime in 1970s.
- 5 This photo, Government Exhibit 606-A was taken
- 6 outside of the defendant's club on 101st Avenue across from
- 7 the bank in 1986 and you can see the defendant on the left and
- 8 Gasper Valenti on the right.
- 9 This next one or these next two from a surveillance
- 10 on May 23, 1986. You will remember that Special Agent Metts
- 11 testified he observed the defendant and Gasper Valenti and
- 12 possibly another male leave carrying what appeared to be bats
- 13 or sticks and looking upset.
- 14 You can see Gasper Valenti in the photo to the right
- 15 going back into the club holding what looks like one of those
- 16 bats or sticks.
- 17 Government Exhibit 620-E is a photo of the two of
- 18 them, the defendant and Gasper Valenti, standing outside of
- 19 the club on 101st Avenue in June of 1986.
- The photographs speak for themselves and they show
- 21 without a doubt that Valenti was at the defendant's side
- 22 nearly every day for years in the 1980s and the early 1990s,
- 23 and he wasn't just at his side. He was ready to follow the
- 24 defendant's orders, do his bidding, help him conduct his Mafia
- 25 busi ness.

3490

1 Even the body language of the defendant and Valenti 2 in some of these photographs shows who had the power in that 3 relationship, the defendant, and that Valenti's purpose was 4 almost to shadow him and be there to assist him and back him 5 up. 6 The defendant's rise in the Mafia didn't stop at 7 As you heard from multiple witnesses, the defendant 8 was promoted to captain in the early 1990s. As Sal Vitale 9 told you, the captains in organized crime are right below the 10 administration; that Trifecta of the boss, underboss and 11 consigliere or the boss' advisor; and as Vitale put it, the 12 role of the captain is to maintain the soldiers that the boss 13 assigned to him. 14 The captains are even more insulated from the 15 They guide the soldiers and listen to their gripes, 16 as Vitale explained, and if a captain has a score he might 17 give it to his soldiers to do. He doesn't put himself in the 18 line of fire with the crimes his crew is committing. 19 gotten to a point in his Mafia career where he can enjoy the 20 power and the money coming in and no longer have to prove 21 himself in the street. 22 Sal Vitale told you that in the early 1990s after 23 Joe Massino came home from being a fugitive, Massino promoted 24 the defendant to the position of captain. Vitale testified 25 that the defendant's crew at that time included his son Jerry

3491

1 and other soldiers named Na-Na, Jack and Anthony Elmont. You

- 2 know from Valenti's testimony that Jack was Jack Bonventre, a
- 3 prominent acting captain in years and a cousin of the
- 4 defendant, and that Na-Na was Jack's father.
- 5 Vitale also you that there were associates around
- 6 the defendant at the time that he was promoted to captain and
- 7 that those associates included Gasper, the defendant's
- 8 relative. Valenti too confirmed that the defendant was
- 9 promoted to captain in the early nineties and Anthony Ruggiano
- 10 also testified he was aware the defendant held the position of
- 11 captain in the Bonanno Family at that time.
- Specifically, Ruggiano mentioned the following
- 13 conversation that made him realize the defendant was a captain
- 14 because only captains -- only captains would be seeing the
- 15 proposal list that Ruggiano was rumored to be on.
- 16 Sal Vitale also testified about the important
- 17 qualities for a captain in organized crime.
- He said, you have to know the life. He knows what's
- 19 right and wrong in the life. He's been in it long enough to
- 20 know the dos and the don'ts, to maintain his soldiers.
- 21 And here is Gasper Valenti's testimony about the
- 22 defendant getting promoted to captain in the early nineties.
- This is the defendant's social club, the Triangle
- 24 Shoppe, that he frequented in the nineties, which is on the
- 25 triangle that I just mentioned on 87th Street and 101st Avenue

3492

1 in Ozone Park.

- 2 And this is an Tony Ruggiano's testimony about that
- 3 list.
- 4 Question: When did you become aware that he was a
- 5 captain, approximately what time period?
- 6 Answer: In the 1990s.
- 7 Question: What conversation did you have with the
- 8 defendant in the nineties about organized crime?
- 9 Answer: He told me that my name was on the list,
- 10 the list that was going around of people that were proposed to
- 11 be straightened out. The list went to the captains.
- 12 I want to take a moment now and discuss the
- 13 cooperating witnesses who testified over the past few weeks
- 14 and told you about the defendant's membership in the Bonanno
- 15 Family and all the crimes he committed.
- 16 Each of those witnesses, Sal Vitale, Gasper Valenti,
- 17 Peter Zucarro and Anthony Ruggiano, previously led
- 18 crime-filled lives in La Cosa Nostra, lives full of violence
- 19 and other crimes.
- 20 You may not like these witnesses or approve of what
- 21 they've done in the past. But the question is not whether you
- 22 like them. It is whether you believe them.
- 23 And remember, these witnesses are the defendant's
- 24 people, then who ones belonged to the same violent secret
- 25 society that he did. This is a secret society in which the

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1 punishment for speaking with law enforcement is death. 2 The secrecy that surrounds the Mafia makes it 3 difficult for law enforcement to gather information, but we 4 took you inside the mob through the testimony of those who 5 know it best. 6 Ladies and gentlemen, how do you know you can rely 7 on these witness' accounts of what happened? You know from 8 all the other evidence in this case, which supports the 9 cooperating witness' testimony. 10 The surveillances from decade after decade that show 11 Valenti and Vitale at the defendant's social clubs with him, 12 that show Valenti, Vitale and Ruggiano at La Cosa Nostra 13 events, like wakes that the defendant also attended, at the 14 Grand Avenue club that we just saw, on the day it was raided 15 in 1992. 16 And you also know these witnesses are telling the 17 truth from the many recordings that we offered in evidence at 18 this trial, countless recordings that show how close Valenti

20 other about their lives of crime. A recording of the

19

21 defendant at his own social club in 1994 speaking to Sal

and the defendant were and how much they confided in each

22 Vitale, arranging to meet and checking in with him as his

23 superior in the Bonanno Family, and then speaking to Tony

24 Green, the same Bonanno made member who appeared in several

25 surveillances of Bonanno social clubs in the 1980s and

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1 nineties, including the defendant's. 2 How else do you know you can rely on their 3 testimony? It is supported by the testimony of other 4 witnesses in this case, by victims, by law enforcement 5 officers who witnessed something relevant to the charged 6 And furthermore, by physical evidence like notes, 7 proposal lists and phone books recovered from members of 8 organized crime. 9 And although the cooperating witness' testimony 10 doesn't always perfectly align, that is because people's 11 memories aren't always exact. That's one additional way you 12 can tell whether it's true.

For all of those similarities as criminals, you saw
that each of these witnesses was his own person, with his own
characteristics, and his own account of what happened. And
they all testified to the same thing. The defendant is a
powerful, long-standing made member of the Bonanno Crime
Family.

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21

22

23

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How else can you believe the testimony of these cooperating witnesses about the defendant's membership in the Bonanno Family? First, there are the surveillances of wakes, weddings and meetings in the nineties and 2000s that show the defendant consistently appearing at important Bonanno Family and broader Mafia events, continuing to associate with the Bonanno Family and demonstrating his ongoing membership in the

3495

1 crime family.

- 2 At the defendant's own daughter's wedding, on
- 3 March 4, 1995, as Agent Matthew Zeumann told you, a long list
- 4 of high ranking Bonanno Family members were present, including
- 5 Sal Vitale, Tony Green, James Tartaglione, Cammaranos, Vincent
- 6 D'Antoni, Vito Grimaldi, and the list goes on.
- 7 And at the May 1995 wake of Henry Bono, the
- 8 defendant attended with along with Sal Vitale, Gerlando
- 9 Sciascia, the Cammaranos, Thomas DiFiore, Generoso Barbieri
- 10 and others.
- And in much more recent years, on December 28, 2012,
- 12 as probation Officer Robert Anton testified, the defendant
- 13 attended that meeting of higher ranking captains in the
- 14 Bonanno Family, including then boss, Thomas DiFiore, who you
- 15 can see in the photograph to the right.
- Most importantly, you heard the defendant tell you
- 17 in his own words about his participation in the Bonanno
- 18 Family's him activities well up until his arrest in this case
- 19 in January 2014.
- The defendant himself gave you the final chapters of
- 21 his membership in the family in those recordings that are in
- 22 evidence. He talked to Valenti about the time that he was in
- 23 jail and got knocked down or broken from the position of
- 24 captain. In other words, got demoted to soldier.
- 25 And you will hear the defendant refer to when the

3496

1 Bonanno Family leadership demoted him to soldier while he was

2 in prison and complained about how Jerry, his son, didn't come

- 3 to visit the defendant there to discuss it.
- 4 And you also heard the defendant tell Valenti on
- 5 certain recent recordings how he was recently promoted again
- 6 to captain, doing all the running around for the family,
- 7 settling beefs, making wiseguy introductions, conducting the
- 8 family's business.
- 9 Finally, physical evidence that we presented at
- 10 trial proves the defendant's close association with organized
- 11 crime over several decades. There is Government Exhibit 703
- 12 that contains Mickey Bats Cardello's phonebook which was
- 13 seized during that February 1992 raid of the Grand Finale
- 14 club, that Bonanno Family social club in Queens. You saw
- 15 photos of the defendant outside that club the day of the raid
- 16 and the phonebook seized contained numbers for Vinny A and
- 17 several other made members of organized crime.
- 18 You saw the phone book provided by Sal Vitale
- 19 himself, Government Exhibit 702, which contained telephone
- 20 numbers for Vinny A, and numerous other made members of the
- 21 family, Jerry Asaro, Ronnie Howard Beach, which is Brian
- 22 Giallanzo, his nephew, Tony Green, Anthony Urso, Tommy D,
- 23 which is Thomas DiFiiore, and TG, Anthony Graziano.
- You saw Government Exhibit 705-A, B and C, phone
- 25 books seized from Mickey Santora during a 2012 search warrant

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1 executed at his apartment, which contained, again, phone

- 2 numbers for Vinny A, Vinny Asaro, Vinny TV, Vincent
- 3 Badalmenti, Anthony Rabito, Jerry Chilli and Tommy D, Tommy
- 4 DiFiiore.
- 5 These are all powerful made members of the Bonanno
- 6 Family.
- 7 When you see the defendant's name and phone number
- 8 in these phone books, that's additional concrete proof that he
- 9 belongs to the same criminal enterprise as the other organized
- 10 crime members listed in there.
- 11 One thing you will also know from the evidence
- 12 presented in this case is that the defendant takes very
- 13 seriously knowing one's place in the mob. You heard from Sal
- 14 Vitale about the incident involving Joe Marsala, who was the
- 15 defendant's associate and then complained to Sal Vitale about
- 16 him and how he was treating Joe Marsala and how after that,
- 17 when Sal Vitale approached the defendant about the issue, the
- 18 defendant exploded on him. He was outraged that Sal Vitale,
- 19 who was just an associate at the time, had the audacity to
- 20 speak to the defendant about this issue. And the defendant
- 21 was made at the time.
- The only way the defendant calmed down was when
- 23 Vitale revealed that he was there because Phil Rastelli, the
- 24 boss, had sent him to Vinny to give him that message about Joe
- 25 Marsala and leaving him alone until Joe Massino got home.

3498

1 And Anthony Ruggiano also testified about a similar 2 incident with the defendant, when shortly after he had been 3 inducted into the Bonanno Family, he let Jo-Jo Corozzo have it 4 for approaching him about a dispute when again Jo-Jo was not a 5 made guy and the defendant recently had been inducted. 6 As several witnesses have told you, there were 7 long-term repercussions from that incident. The defendant 8 didn't get along with Ronnie One Arm Trucchio or the Corozzos 9 because of that, because of that beef and the fact that an 10 associate had come to talk to the defendant who was a soldier. 11 Through all of this evidence, the government has 12 proven beyond a reasonable doubt that the defendant was 13 associated with and a member of the charged enterprise, the 14 Bonanno Crime Family. 15 (Continued on next page.) 16 17 18 19 20 21 22 23 24 25

3499

1 (Continuing) 2 MS. COOLEY: The next and final element the 3 government must prove is that the defendant knowingly and 4 willfully became a member of the conspiracy. That is, he 5 agreed with, at least, one other person to participate in the 6 conduct of the affairs of the Bonanno crime family through a 7 pattern of racketeering activity. The judge will define what 8 that means, but simply put, it means the defendant's 9 participation in a pattern of racketeering activity, the 10 defendants' participation in crimes as part of the Bonanno 11 crime family. 12 In this case there are fourteen racketeering acts 13 and we have proven all fourteen beyond a reasonable doubt. 14 the Court will instruct you, to find the defendant guilty of 15 Count One you have to only find that the defendant agreed to 16 participate in the Bonanno crime family with the knowledge and the intent that he, himself, or another member of the 17 18 conspiracy would commit, at least, two racketeering acts. 19 Only two are required, and we have proven fourteen. 20 We have proven the fourth element of RICO 21 conspiracy. I am now going to go through some of the evidence 22 supporting each of the racketeering acts, and for the final 23 racketeering act, Racketeering Act Fourteen, because it

includes charges that are very similar to Counts Two and

Three, which charge extortion and collection of credit

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3500

1 conspiracy and extortion and collection of credit, I am going

- 2 to talk about those crimes together.
- THE COURT: Excuse me, before you go into that,
- 4 would you like to take a break?
- 5 MS. COOLEY: That sounds good. Thank you, Your
- 6 Honor.
- 7 (Jury exits.)
- 8 THE COURT: Please sit down.
- 9 (Recess taken.)
- 10 (In open court jury not present.)
- 11 THE COURT: Please be seated. Is everyone ready?
- MS. COOLEY: Yes.
- MS. ARGENTIERI: Yes, we're ready, Judge.
- 14 THE COURT: Ms. Cooley, can you go through to
- 15 1 o'clock this time?
- 16 MS. COOLEY: Yes. Yes, I think that will be fine,
- 17 Your Honor.
- THE COURT: Okay.
- 19 MS. COOLEY: Thank you.
- 20 THE COURT: If you need a break, let me know.
- 21 MS. COOLEY: Thank you, Judge.
- 22 THE COURT: We are getting the jury.
- 23 MS. COOLEY: Thank you.
- 24 (Jury enters.)
- THE COURT: Please be seated.

3501

1 Continue. 2 MS. COOLEY: Thank you. 3 I am going to begin with Racketeering Act Two, which 4 relates to the murder of Paul Katz. Racketeering Act Two 5 alleges three crimes; murder conspiracy, murder of Paul Katz 6 and accessory after-the-fact to that murder. Any of these is 7 sufficient to establish this racketeering act and we have 8 proven all three crimes beyond a reasonable doubt. 9 (Exhibit published.) 10 This is Paul Katz and his wife when they were in 11 their late twenties, close in time to when Paul Katz was 12 The evidence has shown that the defendant and Jimmy murdered. 13 Burke murdered Paul Katz in December 1969 because they 14 believed Katz was an informant. They strangled Katz with a 15 dog chain, then buried his body, concealing the evidence of 16 their horrific crime in the basement of a home located at 17 81-48 102nd Road in Queens near Liberty Avenue. 18 evidence also showed that some ten to fifteen years later, the 19 defendant directed Gasper Valenti and his own son, Jerry 20 Asaro, to remove the remains of Paul Katz from that burial pit 21 in that Queens basement and Valenti and Jerry Asaro did just 22 that. Yet, as you saw and heard they didn't remove 23 Certain remains of Paul Katz were left behind and everythi ng. 24 they remained buried in that basement in Queens until 2013 25 when the FBI came to that basement and executed a search

3502

1 warrant. 2 How do you know that the defendant killed Paul Katz? 3 You know that from several different types of 4 evidence in this case. To start, you know that from the 5 testimony of witnesses. Gasper Valenti told you all about his 6 involvement in this murder, specifically how the defendant, 7 whom he reported to at the time, involved him in concealing 8 Katz's body after the defendant and Jimmy Burke had murdered 9 Valenti told you that he covered the hole in that 10 basement that Katz's body had been placed in with cement, and 11 later in the mid'80s he and Jerry Asaro, the defendant's son, 12 broke ground in that basement and attempted to exhume Katz's 13 remains from that location. Valenti described in detail what 14 he knew about Paul Katz prior to that day. He told you that 15 Paul Katz had a warehouse, which Valenti knew through what the 16 defendant told him. He knew that he, personally, had been to 17 that warehouse on three or four occasions in the late '60s. 18 The warehouse was in South Ozone Park, in Queens. 19 Valenti told you, he never met Paul Katz. Valenti told you 20 about what that warehouse looked like with the garage door, a 21 bay backup where you back a truck up and unload it into the 22 warehouse, and he told you about other people he'd seen there 23 helping to unload the highjacked trucks of whatever 24 merchandise they contained. Those people included Billy Bud 25 Santos, who was Jimmy Santos' brother, and a guy named Carl,

3503

1 who worked at Robert's Lounge for Jimmy Burke serving coffee

- 2 and sandwiches.
- 3 You heard from Valenti that this system, the
- 4 defendant, Jimmy Burke and their criminal associates had going
- 5 with Paul Katz's warehouse did not end up going according to
- 6 plan. In the late 1960's the defendant was arrested at that
- 7 warehouse, the same one Valenti had been to a few times
- 8 before. Valenti testified, Vinny came in, he came into
- 9 Robert's Lounge and he was peeved that he was the only one
- 10 left in there and the other guys had bought their way out and
- 11 left him in there.
- 12 Question: What did he say?
- 13 Answer: Well, he had got into an argument with
- 14 Jimmy Santos, I believe it was, that's why he was left in
- 15 there. You know, we went together, which he was right, why
- 16 should he be left in there?
- 17 The defendant was angry about the arrest, about
- 18 getting locked up, and about his getting left behind to stay
- 19 in jail overnight while his criminal associates had gotten
- 20 out. And shortly after that, Valenti told you Paul Katz went
- 21 missing.
- 22 What other evidence have you seen regarding that
- 23 arrest of the defendant? You saw Government Exhibit 407, the
- 24 arrest report.
- 25 (Exhibit published.)

3504

1 Showing that the defendant and six other men 2 including Tommy DeSimone, an associate in the Lucchese family 3 who committed crimes with Jimmy Burke, and a guy named Carlo. 4 They, too, were arrested and the date of this arrest of the 5 defendant and those several other guys was November 12th, 1969 6 at 5:00 p.m. at the location 107-36 157th Street in Ozone 7 Park, Queens. 8 So what's significant about that arrest? It 9 happened on November 12th, 1969 at 5:00 p.m., a time when a 10 prisoner could be kept in jail overnight. Multiple people, 11 including the defendant, were arrested. Those other people 12 included Tommy DeSimone, who you learned from Valenti and 13 other witnesses at trial was an associate with a close 14 relationship to Jimmy Burke, and also a guy named Carlo 15 Piccioli, a name that sounds like the Carl from Robert's 16 Lounge who Valenti knew to unload trucks at Paul Katz's 17 And the location of the arrest was an address in warehouse. 18 Ozone Park, the same neighborhood where Valenti said Katz's 19 warehouse was located. 20 The next thing Valenti told you was that when the 21 defendant called him and said: I need to have a place for a 22 meeting with Jimmy Burke; Valenti explained that he understood 23 the defendant to be asking him for a place where the defendant 24 and Jimmy Burke could have a secret meeting where no one would 25 The defendant suggested meeting at the houses that know.

3505

1 Valenti had access to at that time. You heard from Valenti 2 that not long before this happened his father passed away in 3 September 1969. When his father passed away, Valenti took 4 over the homebuilding business that had been his father's. The business involved building homes on 102nd Road between 5 6 83rd and 84th Streets in Queens. At the time of his father's 7 death, the properties were not finished. They would be sold 8 once they were finished, and in the meantime Valenti had 9 access to those homes and showed them to potential buyers on 10 the weekends. Valenti chose one of these houses as the 11 location for the defendant's meeting with Jimmy Burke. 12 This is a photograph that's in evidence, it's 13 Government Exhibit 142, and it shows the location of that 14 house where that secret meeting took place. The house where 15 Paul Katz's body was buried. The red arrow is pointing to 16 that house. 17 (Exhibit published.) 18 Valenti told you that when the defendant and Jimmy 19 Burke arrived at this location they had tools with them; a 20 sledgehammer, a shovel and a breaking bar. Valenti stayed 21 upstairs for about three hours and in that time he heard the 22 sound of a sledgehammer hitting concrete. After those three 23 hours, Jimmy Burke Left and the defendant drove Valenti to get

The defendant owned a fence company at that time,

a truck to use to cover the hole in the concrete in the

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basement.

3506

- 1 which is where they went to go get that truck. Valenti told
- 2 you about the secret conversation he and the defendant had
- 3 while they were in the car on their way to the fence company.
- 4 He told you the defendant said that he had to do most of the
- 5 digging in the basement because Jimmy Burke had hurt his hand
- 6 during the murder of Paul.
- 7 Valenti testified about what happened that day, he
- 8 said:
- 9 The following day, Vinny pulled up and then shortly
- 10 after, Jimmy Burke pulled up and backed the car down into one
- 11 of the driveways where the homes were being completed.
- This is Valenti's testimony about the day when they
- 13 had that secret meeting and came to the house to bury Paul
- 14 Katz. And Valenti said, "This was on a Sunday, there was no
- 15 one working."
- 16 Question: What happened then?
- 17 Answer: Vinny came up the steps where I was at the
- 18 two model homes and said, "We have to bury somebody."
- 19 Question: What did you say?
- 20 Answer: I was, like, kind of taken back. I didn't
- 21 know if he was serious or not. But then we walked down the
- 22 steps where Jimmy was and he says, "Open the basement door."
- 23 And I opened the basement door and he says: "Just stay out
- 24 front, make sure nobody comes in here." And I waited upstairs
- 25 for about three hours.

3507

1 Question: What did he say to you about how Paul 2 Katz was killed? 3 They strangled him with a dog chain. 4 Question: Who strangled him? 5 Answer: Jimmy Burke and Vinny. 6 And this testimony now relates to the conversation 7 that the defendant and Gasper Valenti had in the car on the 8 way to the fence company after that. 9 Did Vincent Asaro tell you the name right Question: 10 away? Meaning the name of the person they had killed. On the way to get the truck, he slipped out 11 Answer: 12 with the name. 13 What did he say? 14 Answer: He says, "The guy was a rat." He says, 15 "Paul Katz" and he says, "Forget about it." 16 Question: What did you say? Answer: I said -- said, "What?" He said, "That's 17 18 I'm sorry I said that name to you. Never, ever mention 19 that name again or this incident." 20 While they were in the car having that conversation, 21 the defendant also told Gasper Valenti that he had hit a water 22 pipe with the breaking bar while he and Jimmy were digging the 23 hole to bury Paul Katz in. And he said he made an indentation 24 in that pipe. Valenti next told you about what happened after

that conversation. He and the defendant got the truck at the

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1 defendant's fence company and Valenti took the truck, went 2 back to that burial house and did what the defendant told him 3 The defendant had said spread lime on the hole, and 4 Valenti did that because the defendant told him to. And the defendant's reasoning for doing that was because it would help 5 6 make the body decompose quicker. Once Valenti did that, he 7 covered the hole with cement. And Valenti told you that the 8 hole was in the basement toward the front of the house. 9 testified that the hole was kind of oblong shaped. Valenti 10 had covered up the hole in that house on 102nd Road, but that 11 was not the last he heard of this incident. Valenti told you 12 how a few days later the defendant came to his house with a 13 He testified: message. 14 He came to my house -- meaning the defendant -- and 15 said that we had to go and meet his father at the Lindenwood 16 Di ner. 17 What, if anything, did he say to you in the car 18 about why you were going? 19 Answer: To discuss the Paul -- he never said "Paul," to discuss the incident that happened. 20 21 When you got to the diner, who was there? 22 Answer: My uncle. 23 What happened?

apologetic towards me and said, "I am so sorry that this

We sat down and my uncle, he was -- my uncle was

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1 happened. This should have never happened with you, but it

- 2 did happen. We are going to discuss this this one time and it
- 3 should never be spoken to about again with no one."
- 4 Valenti told you that when he went to the Lindenwood
- 5 Diner a few blocks away from his house in Queens and had this
- 6 conversation, when he got there his Uncle Jerome, the
- 7 defendant's father, was there. And this was the same Uncle
- 8 Jerome who was a made member of the Bonanno family. The same
- 9 uncle who had initiated Valenti into the life of La Cosa
- 10 Nostra, and the man who both Valenti and the defendant
- 11 reported to in organized crime. And Valenti told you that he
- 12 never did discuss this again after that with his Uncle Jerome,
- 13 but Valenti asked a question at that meeting at Lindenwood
- 14 Diner, as he told you:
- 15 I wanted to know who else knew besides -- that I was
- 16 involved in this, besides Jimmy and Vinny.
- 17 And my uncle said, "Just Paul Vario and myself."
- 18 Question: Now, at that time, what was your
- 19 understanding of why Paul Vario knew?
- 20 Answer: Well, Jimmy was an associate of his. Jimmy
- 21 had put it on record.
- 22 Question: And who was Paul Vario?
- 23 Captain in the Lucchese crime family.
- You heard Valenti, Sal Vitale, Peter Zuccaro and
- 25 Anthony Ruggiano testify about what on record means. As

1	Vitale explains, when you report to a made member of organized
2	crime, you are expected to put what you do criminally on
3	record with that person. In other words, you are supposed to
4	tell them about it. And Vitale testified that the reason for
5	this is so the made member has some control over the whole
6	situation. So here, both the defendant and Jimmy Burke went
7	to their own separate guys in their crime families. The
8	defendant went to his father Jerome and Jimmy went to Paul
9	Vario. The defendant and Jimmy told them about their murder
10	of Paul Katz, allowing them to have some control over any
11	consequences. And there was another reason why it was in the
12	defendant's best interest, the higher-ups of the Bonanno
13	family knew about Katz's murder. This incident proves that
14	the defendant was capable of killing someone, specifically
15	someone believed to be an informant. As Valenti told you:
16	Question: What was your understanding of why Paul
17	Katz was killed?
18	Answer: He was an informant.
19	Was that against the rules in organized crime?
20	Answer: Yes, it is.
21	The evidence has shown that the defendant murdered
22	Paul Katz at a time when he was striving to prove himself to
23	his peers and his superiors in La Cosa Nostra. He was still
24	up and coming in the mob, in his mid-thirties, and he
25	desperately wanted to prove that he was worthy of being made

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1 in the Bonanno family. And just as his partnership with Jimmy 2 Burke helped launch his reputation as an earner in the late 3 '60s and '70s, in the same way that partnership helped him 4 prove himself as a killer and get even more street cred in the mafia. 5 6 So how do you know that you can rely on Valenti's 7 testimony about what led up to Katz's murder? 8 At trial you also heard from Lawrence Katz, the son 9 of murder victim, Paul Katz. And his testimony supported 10 Valenti's in several important ways. Lawrence Katz is a son, 11 who when he was about to turn six years old saw his father 12 leave home after dinner and then never saw him again. A son 13 who had to wait 44 years to know what had happened to his 14 father, and only to learn at that late date that all that was 15 left of him were remains buried in a basement. His mother had 16 already passed away, never knowing what befell her husband all 17 those years ago; never getting closure. 18 Mr. Katz, now an adult, told you about that last 19 night he saw his father and he told you about what his house 20 was like in the months leading up to that night in 1969.

was like in the months leading up to that night in 1969.

Lawrence Katz said that in 1969 his father was a truck driver for a living, but in mid 1969 he noticed his father starting to bring merchandise into their house, things like clothing, including fur coats, electronics and furniture. He testified that his father brought that merchandise into the apartment

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1 through their bedroom window a few times a month. And

- 2 typically, the merchandise didn't stay there long. And his
- 3 parents fought over this. His mother was unhappy with what
- 4 Paul Katz had gotten involved in. Lawrence Katz also told you
- 5 that after he started seeing his father bring that merchandise
- 6 into the house, his father got arrested for highjacking a
- 7 truck. And Mr. Katz's testimony about what happened after
- 8 that arrest supports what Valenti told you about the reason
- 9 Paul Katz was murdered. He was an informant, which the
- 10 defendant and Jimmy Burke had zero tolerance for. Lawrence
- 11 Katz told you that his father got released on bail after his
- 12 arrest and that he saw him outside their apartment after that.
- 13 Mr. Katz testified:
- 14 Question: And what happened when you saw him at
- 15 that moment?
- Answer: I ran up to him and jumped into his arms.
- 17 What, if any, toy did you have at that time?
- A gun and some handcuffs, a plastic gun and
- 19 handcuffs.
- 20 And what, if anything, did your father say at that
- 21 moment?
- 22 He put me back down and said: I've had enough of
- 23 those for a while.
- 24 Question: Referring to the toys?
- 25 Answer: Yes.

1	After Paul Katz came home from jail and told his son
2	he'd had enough of handcuffs for a while, Lawrence Katz said
3	that law enforcement officers began calling his home. Katz
4	remembered hearing the name of one particular officer, Sal
5	Petix, who began call his father following his arrest and
6	release. Lawrence Katz also told you this:
7	Question: And in terms of law enforcement officers,
8	now that your father had been released, what do you remember
9	heari ng?
10	Answer: That they were gonna help him.
11	Question: The law enforcement officers were going
12	to help who?
13	Answer: My dad.
14	Lawrence Katz's observations at that time support
15	that the police were going to help Paul Katz because he was
16	helping them, acting as an informant. Mr. Katz noticed his
17	parents fighting after Paul Katz had phone calls with Officer
18	Petix, and he saw that his mother was stressed and afraid.
19	Around this same time Paul Katz talked to his family
20	about a plan to move out of the New York City and into the
21	country. Paul Katz was relaxed as he talked about this new
22	beginning with his family. As Lawrence Katz testified:
23	He had drawn a picture of a home, and said we were
24	going soon, we were going to move into the country, build a
25	house and move into the country.

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1 And Lawrence Katz also told you that around this 2 same time his parents had purchased a property upstate in the 3 country to make good on that plan to start fresh outside the 4 city, to leave the life Paul Katz had taken up, that criminal 5 life with the stress and fear and possible jailtime always hanging over your head and settle somewhere peaceful in the 6 7 country. 8 All of Lawrence Katz's observations support what you 9 know from Gasper Valenti's testimony, that Paul Katz was 10 cooperating with the police, was acting as an informant at the time he was murdered. And you heard Lawrence Katz tell you 11 12 about the night his father disappeared, how Paul Katz got a 13 phone call and said he had to go. His mother begged his 14 father not to go, or at least to take someone or the family 15 dog with him. After Paul Katz left that night, his wife was 16 nervous and afraid and made their children, including 17 Lawrence, hide in the dark. When Paul Katz never came home, 18 his wife and five children soon after left New York City and 19 moved elsewhere. They moved frequently after that, living an 20 unsettled life full of uncertainty. 21 It's possible defense counsel may say to you in 22 their summation that you should disregard Mr. Katz's testimony 23 because he was so young when his father went missing, but 24 think about what was memorable about those months in 25 Mr. Katz's life: Fighting between his parents over his

3515

1 father's new criminal activity; the phenomenon of merchandise 2 coming through the apartment window, including things like fur 3 coats, which are pretty memorable; his father's arrest and his 4 mother's fears; and finally, his father's sudden disappearance followed every day after that with fear and a singular thought 5 6 of where is my father today? What happened to him that night? 7 I submit that under those traumatic circumstances, 8 even at a young age those memories remain seared into your 9 mind forever. 10 What other evidence supports Gasper Valenti's and 11 Lawrence Katz's testimony about what led up to Paul Katz's 12 murder? 13 First, you saw documents that support that 14 testimony. Valenti told you that Paul Katz had a warehouse, 15 that the defendant, Jimmy Burke, Valenti and others were using 16 to store swag or merchandise stolen off of highjacked trucks. 17 And the birth certificate for Lawrence Katz, in evidence as 18 Government Exhibit 442, indeed, says that his father Paul 19 Katz's usual occupation was as a warehouseman. 20 (Exhibit published.) 21 And the police records relating to the Paul Katz 22 missing person report offered in evidence by the parties' 23 stipulation further confirm that Paul Katz was cooperating 24 with the police at the time he was murdered. These records

show that Paul Katz's wife reported him missing on

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1 December 7th, 1969 and that she called detective Sal Petix to

- 2 report Katz missing and said he had said he was going to see a
- 3 criminal associate the night he disappeared, December 6th,
- 4 1969. Sal Petix is the same name Lawrence Katz mentioned to
- 5 you, the name of the policeman who started calling Paul Katz
- 6 after he was arrested and released on bail.
- Ask yourselves why would Mrs. Katz call that same
- 8 Detective Petix when her husband didn't come home the night of
- 9 December 6th, 1969? It's because her husband was an informant
- 10 for the police and Detective Petix was his point of contact
- 11 there. He was the one to go to for help.
- 12 In addition to the murder of Paul Katz and the
- 13 conspiracy or agreement murder him, Racketeering Act Two
- 14 alleges that the defendant served as an accessory
- 15 after-the-fact to that murder. In other words, he, together
- 16 with other people, tried to avoid getting prosecuted for that
- 17 murder by attempting to dispose of the victim Paul Katz's
- 18 body. I am going to spend a few moments on that charge now.
- 19 Gasper Valenti testified that years after Paul Katz
- 20 was killed and buried in the 1980's, the defendant sent
- 21 Valenti back to the house where Katz was buried. Valenti
- 22 testified about what the defendant ordered him to do at that
- 23 time.
- He called me up, he says: Come to the fence
- 25 company. I went there and he says he got word from Jimmy,

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1	meaning Jimmy Burke, that Jimmy wants that body taken up and
2	just get rid of it.
3	Did he say anything to you about why Jimmy felt the
4	body had to be moved?
5	He said Jimmy was just hallucinating. He's getting
6	delusions and he wanted the body removed.
7	What does it mean to catch delusions?
8	To feel uncomfortable with certain people.
9	At the time that Jimmy caught this delusion, where
10	was he?
11	Answer: In jail.
12	And Valenti told you that he, again, followed the
13	defendant's orders and he went back to that house with the
14	defendant's son, Jerry Asaro, and tools they had gotten from
15	the defendant's fence company. Valenti told you what he
16	observed when he and Jerry broke ground at that burial site in
17	that basement in Queens.
18	Question: What did the defendant direct you to do?
19	To go and exhume the body and get rid of it.
20	With who?
21	Jerry Asaro.
22	Who was Jerry Asaro?
23	Vinny's son.

SAM OCR RMR CRR RPR

once they got there and broke ground. He and Jerry dug up

24

25

And Gasper Valenti told you what he saw in the hole

They dug up material that was like corduroy and pieces bones. of concrete. And Valenti told you that he saw that the body was kind of slumped over with the front of the body curved down, not lying flat. (Continued on the following page.)

3519

1 Gasper Valenti also testified about MS. COOLEY: 2 what had happened when he and Jerry were there removing Paul 3 Katz's remains from that hole in the basement. Valenti said 4 he didn't say anything to Jerry about who was buried there, 5 and the reason for that was because it wasn't supposed to be 6 ever mentioned again. He said that Jerry and he put Paul 7 Katz's remains in a cardboard box, he brought them back to the 8 fence company, and that Jerry told him that he was going to 9 put the remains in paint cans, fill them with cement, and take 10 them upstate to a place he had with Frank Lapetina, and discard them. After all of this was finished, Valenti told he 11 12 spoke to the defendant again. 13 "QUESTI ON: After you and Jerry removed Paul Katz's 14 remains, did you have a discussion with Vinny? 15 "Yes. 16 "What, if any, discussion did you have? 17 "That it was taken care of, and gave him back the 18 key. 19 "At that point, he asked you if you said anything to 20 Jerry? 21 "Yes. 22 "What did you say? 23 "No, I didn't. "Did you say anything to Jerry? 24

SAM OCR RMR CRR RPR

"No, I did not.

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1 With respect to this part of the Gasper Valenti 2 testimony about moving the body of Paul Katz in the '80s, 3 volumes of other evidence in the case prove you can rely on 4 it. 5 First, you know from Valenti's testimony and that of FBI Special Agent Michael Byrnes and Robert Ypelaar that 6 7 Valenti's information led the FBI to the basement of 8 81-48 102nd Road, where, pursuant to a search warrant, they 9 dug at the location Valenti had specified. And this is 10 Government's Exhibit 144-1, that shows where the FBI did their 11 excavation in that house -- I'm pointing to the circle that 12 shows that site -- and that was based on information Gasper 13 Valenti lad given them about where the body would be found. 14 And you heard all about what the FBI found under the 15 floor of that area in that basement. You saw and heard 16 Special Agent Mike Byrnes testify about how the area that 17 Valenti had directed the agents to showed signs of the 18 previous concrete being broken and resurfaced, which makes 19 sense, because he had to pour concrete over the hole 20 ori gi nal I y. 21 You saw the dented pipe that the defendant had told 22 Valenti he dented when Jimmy Burke and he originally dug that 23 burial hole. You can see it in this slide where the red arrow 24 is pointing. 25 And you saw what was excavated from that hole by the

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1 Human remains, including bones, hair, teeth, FBI: 2 dark-colored fabric, floor tile, flooring and other things. 3 You heard from expert witnesses at the medical 4 examiner's office, Brad Adams and Frances Rue. Adams was 5 there during the excavation, and he told you that a bunch of bones that were found together toward the very bottom of the 6 7 hole together formed the entire right hand and wrist of an 8 adult male of Paul Katz's size. The fact that those bones 9 were found together is consistent with the victim's hand being 10 at that depth in the hole, and that those bones, falling off 11 as one unit when an attempt was made to pull the body out of 12 the hole, and this supports what Valenti told you about the 13 way Katz's body was slumped over in the hole. It makes sense 14 that that portion of his skeleton, his right hand and wrist, 15 stayed behind at the bottom of the hole when Valenti and Jerry 16 Asaro tried to exhume the body in the '80s. 17 Brad Adams also told you how there were bones from 18 all parts of the victim's body that they found in that hole, 19 not just that hand and wrist but also vertebrae from the 20 spine, a bone of the collarbone, the bone that forms part of 21 the tailbone. The list goes on. 22 And finally, you heard the medical examiner 23 witnesses' conclusion that the human remains were indeed Paul 24 Katz's remains. Frances Rue's determination, the DNA of those

remains matched that. And these are the bones together that

3522

1 were discovered, and those of Frances Rue's analysis matching

- 2 the DNA from the remains that were recovered to two of Paul
- 3 Katz's children and his sister.
- 4 And you heard about Dr. Jason Graham's conclusion
- 5 that the bones recovered were those of Paul Katz. Dr. Graham
- 6 further told you that he determined the cause of Katz's death
- 7 to be homicide. This evidence, taken together, establishes
- 8 that the human remains recovered by the FBI in June 2013 in
- 9 the basement of that home on 102nd Road where Valenti had said
- 10 they would be were Paul Katz's remains.
- 11 What other evidence supports what Valenti told you
- 12 about this murder? Gasper Valenti also told you that Jimmy
- 13 Burke wanted to buy the house in which he and the defendant
- 14 buried Paul Katz's body, that he didn't buy it directly
- 15 himself. His friend, a guy named Jerry with the nickname Moo
- 16 Moo, bought it along with another house.
- 17 You heard from FBI Special Agent Robert Ypelaar that
- 18 Moo Moo or Jerry, who had the dress shop next to Robert's
- 19 Lounge, was Jerry Vita, the brother of Rose Owechko. Rose
- 20 bought the house in which Paul Katz was buried from Pac Homes,
- 21 Gasper Valenti's home building company, in March of 1970, and
- 22 later, in early 1992, Cathy Burke, Jimmy Burke's daughter,
- 23 bought that house from Rose. The same is true for the house
- 24 right next to that house. Rose bought it in the spring of
- 25 '70, and Cathy bought that property from Rose in early 1992,

- 1 as well.
- 2 All of this is reflected in the property records
- 3 that are in evidence as Government's Exhibits 421-A and B. The
- 4 fact that the house where Katz was buried and the one right
- 5 next to it stayed within the defendant's and Jimmy Burke's
- 6 circle of trust, ending up in the hands of Jimmy Burke's
- 7 daughter Cathy in the early '90s, the same time when she was
- 8 visiting her father in jail, as the prison records I
- 9 previously showed you also show, that's just one additional
- 10 piece of evidence supporting Valenti's testimony that the
- 11 defendant, together with Jimmy Burke, killed Paul Katz and
- 12 buried him in that house at 81-48 102nd Road. And keep in
- 13 mind that the defendant gave Gasper Valenti a key to the house
- 14 when he sent him and Jerry Asaro to exhume Paul Katz's body in
- 15 the '80s. That shows that the defendant could gain access to
- 16 that house as though he were one of the Burkes.
- 17 And Valenti's testimony about Jimmy Burke being in
- 18 jail in the 1980's, when he caught an illusion and wanted the
- 19 defendant to move Katz's body, is supported by the prison
- 20 records that are in evidence as Government's Exhibits 467 and
- 21 469.
- Those show that Burke was in continuous prison
- 23 custody beginning in January 5, 1991, first federal and then
- 24 state, and ending in the mid 1990s, when he died.
- 25 You've also seen volumes of evidence that prove the

3524

1 strength of the relationships between the defendant's son

- 2 Gasper Valenti and Jimmy Burke. You've seen the photographs
- 3 of Gasper Valenti from many years ago with Jerry Asaro.
- 4 You've seen surveillance photographs and have heard testimony
- 5 from prior FBI agent documenting that Gasper Valenti and Jerry
- 6 Asaro were both present at the defendant's various social
- 7 clubs in the 1980s.
- And with respect to Jimmy Burke, perhaps the most
- 9 telling evidence of all is what we went over earlier this
- 10 morning about Jerry Asaro's confirmation and how Jimmy Burke
- 11 was the sponsor, that exceedingly close friend and criminal
- 12 partner the defendant chose to be his son's role model, and
- 13 that confirmation of Jerry Asaro was on May 17, 1969, months
- 14 before the murder of Paul Katz.
- 15 Finally, the defendant's own actions and words on
- 16 the day the FBI began its excavation at the house where he had
- 17 buried Paul Katz's body more than forty years prior are
- 18 perhaps the strongest proof that he committed this murder and
- 19 feared getting caught, just like he feared getting caught when
- 20 he believed Paul Katz was an informant and he had gotten
- 21 arrested at that location, that same fear and that same
- 22 distrust and hatred toward informants.
- Let's turn to the events of that day, June 17, 2013.
- 24 That morning, Gasper Valenti met with the defendant and
- 25 recorded a conversation with him after getting into his car at

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1 about 10:04 a.m., and this is a photo of Gasper Valenti

- 2 entering the defendant's car at that time outside of the
- 3 Esquire Diner.
- 4 (Tape plays.)
- 5 (Tape stops.)
- 6 MS. COOLEY: So, this recording said a lot about the
- 7 defendant's state of mind in the moment when he discovered
- 8 that there was a dig at the house where Paul Katz was buried.
- 9 In the beginning of the recording, he's not sure what Gasper
- 10 is referring to. He thinks he might be talking about Bam's
- 11 Auto Body, which is on Liberty Avenue and close to where the
- 12 house was. He's asking Gasper: For What? For what are the
- 13 feds over there?
- 14 Gasper says: I don't know.
- The defendant still is confused and says: Who are
- 16 they are looking for, John there?
- 17 And then Gasper says: I'm talking about Liberty
- 18 Avenue, where -- and doesn't complete that sentence, because
- 19 both of them are careful and they don't talk about these
- 20 things out loud. They are too smart for that.
- 21 And you hear the defendant's reaction as it dawns on
- 22 him where on Liberty Avenue, where, near Liberty Avenue, law
- 23 enforcement is in that moment. It's the house where he buried
- 24 Paul Katz.
- 25 And after that, you see Gasper try to get some

- 1 response. You know what I mean?
- 2 And the defendant says: No, I don't know what you
- 3 mean. And you can hear the difference in his voice at that
- 4 moment in time.
- 5 And that parallels what Gasper Valenti told you when
- 6 he testified about how in that moment, he realized that the
- 7 defendant had realized that he was an informant, and he had
- 8 that look of disgust on his face, and then the only thing that
- 9 he wanted in that moment was to get Gasper Valenti out of his
- 10 car as soon as possible. So, their conversation ends very
- 11 qui ckl y.
- 12 And at the end, Gasper asks: What can I do?
- He says: What could you do? Nothing.
- And instead of saying, I'll call you, or, Let's
- 15 talk, like many of their conversations had ended before that,
- 16 the defendant makes a point to say, Don't call me, and that's
- 17 how their conversation ends.
- 18 At this moment, the defendant knows that he is very
- 19 likely to get caught for the murder of Paul Katz, and that
- 20 someone he thought was very close to him and safe provided
- 21 information to law enforcement, the thing that he set his life
- 22 agai nst.
- 23 After that moment, we have here a timeline of what
- 24 happened. Gasper Valenti got out of the defendant's car at
- 25 that moment when the recording ended, and six minutes after

3527

1 that, there was surveillances being conducted in the area, and

- 2 the FBI observed the defendant at Bam's Towing, that place
- 3 that's owned by Robert Cotrone, also known as Bam, an
- 4 associate of the Bonanno Family, who was around Vinny Asaro at
- 5 one point.
- 6 So, he goes to Bam's Towing, this is a safe place
- 7 for him, trying to figure out what to do. Next, he gets into
- 8 a different car than the one that he picked up Gasper in, and
- 9 he doesn't even drive. He's a passenger in that car. Ar
- 10 unknown male who is driving then drives him past the house
- 11 where Paul Katz was buried, obviously trying to see what's
- 12 going on, see if they have caught on to what's buried in that
- 13 basement. They then make a U-turn, and go back the opposite
- 14 way, and then they pull over to curb.
- 15 First, they pull over to a curb near that house, and
- 16 make a U-turn and then leave, and then the defendant returns
- 17 to Bam's Towing.
- 18 After that moment, surveillance is continued that
- 19 afternoon. At 12:10 p.m., Special Agent Chance Adam, who you
- 20 also heard testified, observed the defendant arrive at Nassau
- 21 Ready Mix in Long Island. That's the workplace of Jerry
- 22 Asaro, the defendant's son.
- He goes there in person to talk to the one other
- 24 living person who knows this secret, who knows what was buried
- 25 in that basement. He spends twelve minutes there, and then he

1

15

leaves that location.

•	reaction.
2	Later that afternoon, Chance Adam of the FBI
3	observed him at a different location, again at Bam's Towing,
4	that business of the Bonanno Family associate Robert Cotrone.
5	He's observed talking to John Ragano, who is a soldier in the
6	Bonanno Family and very deferential and loyal to the
7	defendant, as you'll hear on recordings we're playing later
8	today.
9	After they speak, the defendant tried to drive away
10	and collides with a metal pillar at that location. He gets
11	out of the car to inspect the damage with John Ragano, and
12	after he goes back inside, surveillance is discontinued.
13	What the defendant did that afternoon is very
14	telling. You heard Special Agent Adam tell you not only did

known to work, but Jerry Asaro's car was parked outside, and so you know that they were meeting in there, discussing what to do next. The defendant didn't just call his son. He went there in person. This is important enough for that.

the defendant go into that location where Jerry Asaro was

Finally, you heard about the defendant's nervous and erratic behavior later that afternoon. You heard about him backing into that metal pillar. Ask yourselves: Is all of this the behavior of someone who is just going about an average day in their life, or this the nervous behavior of someone with a guilty conscience who knows he is on the verge

- 1 of getting caught for the worst crime of his life. I submit
- 2 it's the latter.
- Now, in the Bonanno Organized Crime Family, a man
- 4 can move up and gain respect by showing he's capable of
- 5 killing someone, no matter how senseless that crime may seem.
- 6 By murdering Paul Katz, the defendant proved he was a killer,
- 7 and even more attractive candidate for getting made than he
- 8 had been before.
- 9 Make no mistake, this was a mob hit, and one thing
- 10 you heard from multiple witnesses -- Sal Vitale, Gasper
- 11 Valenti, Anthony Ruggiano -- all with decades of life
- 12 experience in the Mafia, is that it's common for members and
- 13 associates of different Crime Families to commit crimes
- 14 together and help each other make money. After all, the
- 15 ultimate goal for the defendant and his fellow members and
- 16 associates of La Cosa Nostra were to make money and stay off
- 17 of law enforcement's radar, goals they often repeated more
- 18 easily by working together with other Crime Families. And by
- 19 earning and avoiding getting caught by law enforcement, these
- 20 Mafia members and associates increase their status in their
- 21 own Crime Family, and they didn't just help themselves this
- 22 way. By gaining more respect and succeeding, financially,
- 23 they furthered the purposes of their Crime Families by helping
- 24 the Families make money.
- 25 I'm going to show you now what's in evidence as

3530

1 Government's Exhibit 146, and this shows the location of the

3 dig site on the left, Bam's Towing on the right. So, you can

dig site in relation to Bam's Towing on Liberty Avenue, the

4 see the proximity of those two locations to each other.

2

And this is a picture, Government's Exhibit 658-B,

6 is a picture of the defendant exiting Gasper Valenti's

7 business that day in Inwood, Nassau Ready Mix, and you can see

8 him where the arrow is pointing walking out of the property.

9 So, I mentioned Crime Families working together.

10 This first photo, Government's Exhibit 621-A, is a

11 photo that was taken on July 29, 1986 outside of the

12 defendant's social club at that time on 101st Avenue, and it

13 shows the defendant on the left linked arms with Peter Gotti.

14 Peter Gotti, as you heard at this trial, was a

15 powerful member of the Gambino Crime Family. This photo,

16 Government's Exhibit 133-B, is a photo taken outside the

17 Bergin Hunt and Fish Club in the 1980s, which is John Gotti's

18 club, and this shows the defendant arm in arm, putting his arm

19 around John Gotti, who you heard at this trial was a powerful

20 member of the Gambino Family, brother of Peter Gotti, who

21 eventually became boss of the Gambino Family.

These photos themselves prove the point that forging

23 alliance between the Crime Families was a necessary and

24 beneficial part of the life. Anthony Ruggiano explained how

25 profitable something as a card game run by multiple Crime

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1 Families together could be for each Family involved. 2 And this is a recording of the defendant talking 3 about his own activities at the Gambino Family's social club. 4 Here, he's talking about a card game that he played at John's 5 club, John Gotti's club, that we just saw in that photo. 6 (Tape plays.) 7 (Tape stops.) 8 MS. COOLEY: So, you hear the defendant talking 9 about a card game he played at and the big money involved, 10 kind of like what was involved in Cafe Anita, which we talked 11 about earlier today, and he's mentioning and name-dropping 12 Gambino Family members who were very powerful, including John 13 Gotti and Angelo "Quack Quack" Ruggiero. And this is another 14 recording from that same consensual recording made by Gasper 15 Val enti. 16 (Tape plays.) 17 (Tape stops.) 18 MS. COOLEY: So here, Gasper Valenti and the 19 defendant are talking on a recording from October 4, 2011, 20 part of the same conversation about the card games they used 21 to play with members of other Crime Families and the close 22 association with those Crime Families, including Dominic 23 Cataldo, who was around the Columbos, and Funzy, who was 24 around the Genoveses. These were people that they committed

crimes with and also socialized with as a regular part of

- 1 their life in La Cosa Nostra.
- 2 Finally, Anthony Ruggiano, Jr. described how that
- 3 works, how all the Crime Families get a piece of something
- 4 like that card game. He was asked, How did all of the Crime
- 5 Families in La Cosa Nostra work together to make money?
- 6 "ANSWER: My father used to go partners with a few
- 7 members in crap games. They would either put up the bank and
- 8 all have points and other partners would have members working
- 9 in the game, like writing numbers and shylocking money. Each
- 10 family had a little piece of the operation.
- "How, if at all, did making money from that game
- 12 help your father's status in the Gambino Family?
- 13 "ANSWER: He was well liked. Now, he was making
- 14 people earn money."
- So, all of this is not to say that the defendant and
- 16 his fellow Mafia members chose people at random from any Crime
- 17 Family to commit crimes with. You know they committed scores
- 18 with the members they trusted most and could rely on to get
- 19 the job done.
- For the defendant, that included not just the
- 21 Bonanno Organized Crime Family or associates like his son
- 22 Jerry and Gasper Valenti, his cousin. It also included his
- 23 close and trusted associate, his partner Jimmy Burke, a
- 24 powerful and feared figure in organized crime. And as you
- 25 heard from Valenti, Jimmy was more than a capable killer and a

- 1 skilled earner, and it made sense why Vinny allied himself
- 2 with Jimmy and committed crimes with him, unlike Jimmy, who
- 3 was not Italian, the defendant had a shot of bookings made in
- 4 organized crime. His end game was to rise within the Bonanno
- 5 Organized Crime Family, the Crime Family his father and
- 6 father's father, uncle and later his son Jerry were all a part
- 7 of, and partnering up with Jimmy Burke helped the defendant
- 8 realize that role and gain the respect of the people that
- 9 mattered most in his world, the leaders or heavyweights in his
- 10 Crime Family, the Bonannos.
- 11 Vincent Asaro conspired to and did murder Paul Katz
- 12 in December 1969, and he then directed Gasper Valenti, along
- 13 with his own son Jerry Asaro, to move Katz's remains in the
- 14 mid 1980s. All of this evidence establishes that we have
- 15 proven Racketeering Act Two beyond a reasonable doubt.
- Racketeering Act Three charges the defendant with
- 17 the robbery of money and jewelry from employees of Lufthansa
- 18 Airlines on December 11, 1979, and the conspiracy to commit
- 19 that robbery. We have proven both.
- 20 You heard from Lufthansa Airlines' head of security,
- 21 James LoBello, that on December 11, 1978, Lufthansa Airlines'
- 22 employees at JFK Airport in Queens were robbed by force of \$5
- 23 million in U.S. currency and nearly \$1 million in jewelry. As
- 24 Mr. LoBello testified:
- 25 "QUESTION: What has this incident come to be known

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1 as in the company? 2 "ANSWER: The Lufthansa heist. 3 "And where does this rank in terms of the robberies 4 of the airlines in North America? 5 "At the time, it was the largest and the most notorious heist of the airline industry." 6 7 You heard Mr. LoBello and you saw, in Lufthansa's business records which are in evidence as Government's 8 9 Exhibits 403-A through C, the sheer magnitude of what was 10 stolen in that robbery early that December morning: Five million dollars in cash. Shipment upon shipment of jewels, 11 12 watches and gold jewelry from Italy, from Israel. You now 13 know what it took to pull off that epic score. 14 We've given you multiple different vantage points of 15 that robbery, what led up to it and its aftermath. 16 Gasper Valenti's testimony took you inside the 17 robbery conspiracy, and explained how the scheme took off and 18 ultimately succeeded. Former Lufthansa employee Rolf Rebmann 19 give you a victim's perspective of the incident. 20 You heard from several other witnesses, some who 21 explained what the robbers, including the defendant and 22 Valenti, did with the cash and jewelry. And you also heard 23 from law enforcement, officers who did surveillance around the

time of the robbery, tying the defendant to the heist, and

other officers who recovered evidence, like the black getaway

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1 van. And again, the defendant's own recorded words when he

- 2 was speaking to Gasper Valenti and co-conspirator Daniel
- 3 Rizzo, a made member of the Lucchese Crime Family. Those
- 4 recorded words further prove the defendant planned, carried
- 5 out and profited handsomely from the Lufthansa heist.
- 6 Gasper Valenti testified that the individuals named
- 7 on this board, which is in evidence as Government's Exhibit
- 8 458, were the ones who ultimately planned and carried out the
- 9 robbery early that morning in December of 1978.
- 10 In the middle, there's Jimmy Burke and the defendant
- 11 Mr. Asaro. On the lower level, there's Angelo Sepe, an
- 12 associate of the Columbo Crime Family. Joe "Joe Buddha"
- 13 Manri, an associate. Anthony "Snakes" Rodriguez, Daniel
- 14 Rizzo, who I just mentioned, then an associate around the
- 15 Lucchese Crime Family and later a soldier, and Louis Carfora,
- 16 "Fat Louie," an associate.
- 17 And there was also Tommy DeSimone here, that
- 18 Lucchese associate we discussed earlier, and Frankie Burke,
- 19 Jimmy Burke's own son.
- Valenti told you how he became a part of this
- 21 robbery conspiracy. The defendant told him Jimmy Burke has a
- 22 big score at the airport coming up. It was expected to net a
- 23 couple of million dollars in cash, and Valenti was invited to
- 24 go on the heist. Valenti accepted that invitation and said he
- 25 wanted to go. After that, there were more discussions leading

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- 1 up to the heist itself.
- 2 First, Jimmy Burke asked Valenti, Did your cousin
- 3 speak to you? And Jimmy confirmed that Valenti was invited on
- 4 this heist. Valenti confirmed that he wanted to go. The plan
- 5 was to rob a Lufthansa hangar at 261 Battery Road at Kennedy
- 6 Airport. Valenti gave you some background on why both the
- 7 defendant and he were asked to go on this heist.
- 8 First, there was the fact that the defendant and
- 9 Jimmy Burke were partners, as I mentioned earlier, and the
- 10 other motivator was both the defendant and Jimmy's desire to
- 11 get more from the proceeds of the robbery if it worked out.
- 12 In other words, by picking Gasper Valenti to go on the score,
- 13 the defendant had a means to getting that end of the score in
- 14 addition to his own, and that motivated why Jimmy Burke picked
- 15 his son to go. Same reason, potential for more proceeds
- 16 coming in.
- 17 Gasper Valenti testified:
- 18 "QUESTION: What was your understanding of why the
- 19 defendant invited you to go?
- 20 "ANSWER: He wanted to see me to earn, and he would
- 21 also have a second income from the heist.
- "Can you explain that?
- "Yeah. If there were eight people, we would get two
- 24 ends instead of one end, which would be more money for Vinny.
- 25 In other words, because Valenti was an associate

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1 around Vinny Asaro, who was a made man of the Bonanno Family

- 2 by that time in the late 1970s, the defendant wanted to make
- 3 sure Valenti earned. That meant more money for him, and a
- 4 better reputation, and by extension, more money and a better
- 5 reputation for his Crime Family. Of course, there was the
- 6 added benefit that the defendant basically could claim
- 7 Valenti's earnings as his own, something he never had been
- 8 able to do. Jimmy said he chose his son Frankie, who Jimmy
- 9 had named along with his brother after famous outlaws to go on
- 10 the heist for the same reason.
- 11 Once it was decided that Valenti was going, he
- 12 joined the preparations for the heist. He went to a few
- 13 planning meetings with the other coconspirators, including the
- 14 defendant, at Robert's Lounge.
- These were the two locations for those meetings:
- 16 Robert's Lounge on the left, and Jimmy Burke's house on the
- 17 right.
- The defendant also told Valenti to make sure to go
- 19 to the robbery location, the hangar building, in advance.
- 20 Valenti listened, going once with Frankie Burke and another
- 21 time by himself. They got familiar with the area around the
- 22 building and possible ways to escape, and they had inside
- 23 information, an architectural plan for Lufthansa that Henry
- 24 Hill, an associate around Jimmy Burke, had helped get for the
- 25 crew through a guy named Marty.

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1 This is the building as it looked at the time of the 2 The night of the robbery, the defendant drove Valenti to Jimmy Burke's house. In the car, the defendant gave 3 4 Valenti his marching orders. 5 "QUESTI ON: What did Vinny say to you? "ANSWER: Make sure you do everything you're 6 7 supposed to do. You know, don't dog it. In other words, 8 don't run away from it. Anything happens, just stand your 9 ground and continue to do the robbery the best you can. 10 "Would it have reflected poorly on the defendant if 11 you'd done it, if you dogged it? 12 "Yes. 13 "What, if anything, did he give you in the car? 14 "A pistol. .38 hammer-less. 15 In other words, Valenti was representing the 16 defendant on this heist, and the defendant's representation 17 was at stake, and preserving that reputation came first. 18 Valenti testified that Jimmy Burke, Tommy DeSimone, 19 Angelo Sepe and Danny Rizzo were there at Jimmy's house when 20 he and Vincent Asaro arrived that night, and DeSimone was 21 playing with guns and testing out a silencer. All the guys on 22 that board showed up that night. 23 Valenti's role was decided. He was going to be the 24 one to cut the lock on the gate outside the hangar building, 25 so the van could pull in the back. Jimmy Burke had given

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Valenti that information, and told him to bring bolt cutters.
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 2
    Valenti testified that for the first time that night, it was
 3
    decided that the defendant and Jimmy Burke weren't going into
    the airport for the score.
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               (Continued on next page.)
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1 (Continuing) 2 MS. COOLEY: Instead, Jimmy was going to be with 3 Vinny and they were going to be in a crash car about a mile 4 away from the robbery location. You heard from a few 5 witnesses at this trial what a crash car means. Basically, as 6 Valenti explained it, so that if anything goes wrong with the 7 getaway and the police start chasing, the crash car can 8 intervene and crash into the police car. Valenti told you 9 that Jimmy announced this news and explained it had to do with 10 He'd been a three-time loser if they got his criminal record. 11 caught and he would be facing a lot of jailtime. Everyone 12 agreed to this plan. Valenti told you how the getaway van was 13 a black Ford, two doors in the back and one on the side. And 14 that Frankie Burke and Angelo Sepe had stolen it for the 15 score. 16 And Valenti testified about the events of the 17 robbery, itself, how the group drove to the terminal and 18 Valenti was first one out. He ran over what he called that 19 grassy knoll into the area next to the hangar building. 20 cut the lock on the fence that was right there past the grassy 21 knoll on the other side, and then Frankie Burke drove the van 22 back to that location and drove through the open gate with

25 This is a, again, a picture of the building; and

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Val enti.

hangar to that overhead door.

They then went to the back of the building, past the

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1 that red arrow shows where they drove that van and parked and 2 waited at that point in time, while the other robbers entered 3 the building. 4 (Exhibit published.) 5 While Valenti and Frankie Burke were waiting, 6 someone Valenti thought was a guard came out and started 7 walking towards them in the van. Valenti testified that he 8 and Frankie got out, chased the guard. Valenti hit him in the 9 head with his pistol and Frankie stuck a gun in his eye before 10 they brought him back to the van and put him inside. 11 wasn't their last run-in, though. Another guy came out 12 wondering what was going on and after pointing a gun at him 13 too, Valenti and Frankie got him into the van as well. 14 Valenti testified that once everyone was accounted for, they 15 got the rolling door open, drove the van inside and brought 16 the two Lufthansa employees they had had in the van up the 17 stairs to the lunchroom to hold them there with the other 18 employees who had been on their lunch break at the time of the 19 robbery. 20 And up in the Lunchroom Valenti had a conversation 21 with Danny Rizzo, one of the robbers who was there, about the 22 guard who Valenti had pistol-whipped since Danny wanted to 23 know why the guy had blood on him. Valenti told Danny that he 24 had to hit the guard because he had given Frankie and Valenti

a little tussle. Soon Valenti went back downstairs and was

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1 there when a Lufthansa employee opened the high-value vault

- 2 doors at the robbers' direction. Valenti testified that Tommy
- 3 DeSimone was the first one in and Valenti was the next one.
- 4 And when they got inside, Valenti testified that:
- 5 Tommy took a box from the right-hand side, there on
- 6 the shelf, and he threw it down to the floor. And I pushed it
- 7 closer to him, and he stepped on it with his foot, and the
- 8 yellow Styrofoam, like popcorn, popped out of the boxes. And
- 9 Tommy put his hand in there and he pulled out two packages of
- 10 money. Both contained \$125,000 in hundred dollar bills, and
- 11 there were sacks of -- burlap sacks of gold chains, crates of
- 12 watches, a big -- like a three-by-three metal box with little
- 13 drawers in it and each drawer had diamonds in it and emeralds
- 14 and all different stones, and we loaded everything onto the
- 15 van, made a chain and loaded it.
- Soon after that they were out of there, and they met
- 17 up with Vinny and Jimmy on that corner with the red circle
- 18 marked A next to a gas station on 150th Avenue and North
- 19 Conduit in South Ozone Park. Valenti testified that no one
- 20 had thought of where to go after the robbery, but the
- 21 defendant yelled out to bring the loot to his cousin,
- 22 Valenti's house. And that's where they all went. 1483 Blake
- 23 Avenue in Brooklyn, down the hole, as they call it. Valenti
- 24 testified about the immediate aftermath of the robbery, and
- 25 then the process for dividing up the proceeds and getting rid

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1 of evidence that linked these guys to the crime. Valenti told

- 2 you that that night he stayed at his house figuring out what
- 3 they had managed to steal, and eventually Vinny left to drive
- 4 Jimmy Burke and Tommy DeSimone back to their halfway house.
- 5 Valenti testified that Angelo Sepe took the van and dropped it
- 6 off, and later that van was found.
- 7 Later that night, after Valenti had gotten a handle
- 8 on how much they stole, millions more than they were
- 9 expecting, not even counting the jewelry, Valenti said that he
- 10 met the defendant at Fat Andy's, who he knew to be with the
- 11 Gambino family, at Fat Andy's social club on 84th and Liberty.
- 12 Valenti told you that when he saw the defendant that night,
- 13 his mood changed fast from euphoria to fear, as Valenti told
- 14 you the defendant warned him:
- He said we got to be real careful now. He said
- 16 they'll look to rob us, you know, look to kill us and take the
- 17 stuff.
- And by "them," Valenti understood him to mean anyone
- 19 who knew about the score and their involvement. Valenti also
- 20 testified that in the months that followed the defendant
- 21 dictated Valenti's behavior, telling him not to come around
- 22 for some time, conscious of the heat that had been brought on
- 23 Robert's Lounge in the wake of the robbery. And the defendant
- 24 also kept a tight reign on Valenti when it came to Valenti
- 25 taking and spending proceeds of the heist. Valenti told you

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1 how he sent a message through Jerry Asaro to go see him, and 2 then gave Valenti the idea to sell Christmas trees so he could 3 burn the robbery evidence in a barrel by the trees with no one 4 thinking it was suspicious. 5 The money started getting divided up and as Valenti 6 told you, Angelo Sepe and Frankie Burke each came and took 7 some of the money Valenti had been holding. And as Valenti 8 testified, he and the defendant placed their shares, for the 9 most part, with people they trusted, including Dominic 10 Gennaro, an associate of the defendant's father, who the 11 defendant was close to; a guy they called Johnny Tag, a friend 12 of Valenti, and his cousin Gasper Ferreri. Frankie Roder, 13 another associate of the defendant's father, and a guy named 14 Ronnie, whose family had a fence business called Pilot Fence 15 and whose house was on 103rd Avenue and Woodhaven Boulevard. 16 The defendant told Valenti to bring money to these different men and Valenti did so. He didn't tell them what the money 17 18 was from, and occasionally he went back to them to take some 19 of the money out of the packages, sometimes with the defendant 20 knowing, sometimes without the defendant knowing. And the men 21 held onto the money for some months to a year. The rest of 22 the money that Valenti kept, he tried to hide in the door 23 frames of his closets. 24 Now, one of the ways the Lufthansa heist is related 25 to the Bonanno family, the enterprise charged in this case, is

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1 that it benefited the crime family, it enriched it. 2 testified that he and the defendant kicked up or paid a 3 portion of what they made to their superiors in the Bonanno 4 They also paid tributes to high-up members of 5 organized crime. Valenti told you that he and the defendant each received \$750,000 as their shares in the robbery, much of 6 7 which Frankie Burke brought to Valenti at his house. 8 paid a hundred-thousand dollars in tributes from that to their 9 Uncle Mickey Zaffarano, who was the defendant's captain at 10 that time in the Bonanno family. Paul Vario, Jimmy Burke's captain also received a cash tribute payment of a 11 12 hundred-thousand dollars; among others. 13 Valenti also testified that the other participants in the robbery, other than the Burkes, generally didn't get 14 15 top receive their full shares of the proceeds because many of 16 them had died as of the early 1980's. For their parts, the 17 defendant and Valenti spent a lot of their shares gambling. 18 The defendant also bought a house in Moriches, Long Island, 19 which you heard him refer to as the Hamptons on one of the 20 recordings we played. A Lincoln Bill Blass model car and a 21 boat. 22 Valenti also told you about what was done with 23 jewelry from the heist. He testified that some of that 24

jewelry, including gold watches and gold chains, was given as

a tribute to Joe Massino who months to a year after the heist

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1 had become the defendant's captain in the Bonanno family. And

- 2 Valenti knew the other gold jewelry was delivered by the
- 3 defendant, some other gold jewelry, to Tony Lee, the Gambino
- 4 family soldier I mentioned earlier at his gold store on
- 5 Liberty Avenue in Queens.
- 6 Valenti also told you about the nightclub the
- 7 defendant had in the late '70s at 86th Street and Rockaway in
- 8 Ozone Park owned by the defendant, Jimmy Burke and others.
- 9 Valenti testified that it was called Afters, and the name
- 10 Afters was a reference to the Lufthansa heist, a name the
- 11 defendant, himself, had come up with. That's a photo of the
- 12 Afters Lounge at that address, and the building to the left is
- 13 the social club or the after-hours club.
- 14 (Exhi bit published.)
- Now, Gasper Valenti testified to a lot of the
- 16 details of the Lufthansa heist and how the proceeds were
- 17 divided up in the months to years afterward. How do you know
- 18 you can rely on what Valenti told you about the defendant's
- 19 participation in planning and carrying out and in profiting
- 20 from the heist?
- 21 You know that from all the other evidence we
- 22 presented on these charges, including, for example, Rolf
- 23 Rebmann, the warehouse worker at Lufthansa who was one of the
- 24 victims of that heist. Rebmann's testimony about being held
- 25 up at gunpoint, forced to lie in a black Ford van parked with

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1 its back outside the overhead door that led into that 2 warehouse, supported what Valenti told you about those events 3 during the robbery. 4 (Exhibit published.) These photos show that part of the back of the 5 6 building, and that door that's pictured in the bottom right is 7 the overhead door. And the little light blue door to the left 8 of that is the door that Rolf Rebmann came out of when he 9 discovered the van parked there with its back up against the 10 overhead door. 11 Rebmann also testified that there was a locked gate 12 in the same location Valenti had said on the right side of the 13 building where Valenti cut the lock in order to allow the van 14 to drive to that back area where the overhead door was. 15 Rebmann told you he heard voices, indicating that Kerry 16 Whalen, another Lufthansa employee, was lying in the van when 17 he got placed in there with his head covered. And that there 18 were at least two other people, robbers, also in the van at 19 that time. That corroborates what Gary Valenti told you about 20 him and Frankie Burke waiting in the van while the others were 21 inside. 22 Rebmann also corroborated Valenti's account of how 23 he and Whalen were taken up to the lunchroom where they were 24 restrained with the other Lufthansa employees who had been

working that shift. And Rebmann also overheard that

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1 conversation Valenti told you about, between Valenti and Danny 2 Rizzo where Valenti explained why he was being rough on 3 Whalen, because he had tried to give them trouble before. 4 submit that Rebmann's testimony is consistent with and supports's Valenti's account of the Lufthansa case. 5 6 The testimony of John Tagliaferro and Ronald 7 Cecchini, the guys Valenti called Johnny Tag and Ronnie in his 8 testimony, who he said he brought Lufthansa money to to hold 9 onto for a period of time after the heist, the testimony of 10 those two witnesses also corroborates Valenti. Tagl i aferro 11 and Cecchini, both ordinary people living their lives, who 12 testified not because they wanted to, but because they were 13 Their testimony corroborated Valenti's account of subpoenaed. 14 what was done with the Lufthansa proceeds. Tagliaferro, who 15 is 81 years old, told you that he was very close to the 16 Ferreris, as Gasper Valenti told you. Tagliaferro told you 17 that he went to the defendant's social clubs in the '70s and 18 80's, including Café Anita, where he would play cards; and the 19 club on 101st Avenue by the bank. And Tagliaferro also told 20 you about an occasion when he walked in with Gary Ferreri and 21 saw the defendant and Jimmy Burke together at Café Anita. When they walked in Jimmy Burke whispered to the defendant:

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23 Who are those guys? And the defendant applied: Don't worry,

24 they're all right. They're my friends.

25 Finally, Tagliaferro testified that the defendant

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1 gave him a case to hold sometime in the late '70s, before 2 And Tagliaferro never asked any questions, he just 3 placed it upstairs, hid it well in his apartment, and that was 4 it as he put it. And at some point Gary Valenti came to him 5 asking him to get the case. Valenti took it and took some 6 money out of it, and then asked Tagliaferro if he needed 7 And you heard Tagliaferro say that he said he could 8 use a hundred dollars and Valenti gave him that hundred 9 dollars, then locked up the case and had Tagliaferro put it 10 away agai n. Later, Tagliaferro testified, the defendant, 11 12 himself, came and got that case. Tagliaferro also told you 13 about the defendant's relationship with Valenti, how they were 14 cousins and they were close, but that he saw the defendant 15 yell at Valenti several times. And he told you how one time 16 the defendant was screaming and yelling at Valenti because 17 Valenti had not brought someone back to the club who owed the 18 defendant money. When Valenti asked how long he had to wait, 19 the defendant insisted that Valenti go back and get the guy. On all of these subjects, Tagliaferro's testimony backs up 20 21 what Valenti told you. 22 The same is true for Ronald Cecchini whose testimony 23 also supported Valenti's about having brought Cecchini 24 Lufthansa proceeds to hold for him. Cecchini confirmed that

he used to live at that house off of Woodhaven Boulevard, that

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1 his family had Pilot Fence Company. He told you he knew the 2 defendant and Gasper Valenti, that Valenti was significantly 3 younger than the defendant and the defendant bossed Valenti 4 And Cecchini told you how there was a time before 5 1981 when Valenti came to him and asked him to hold a package 6 for him as a favor. Cecchini couldn't confirm what was in the 7 package, but thought it might contain paper. Cecchini felt 8 obligated to say yes, given Valenti's connection to the 9 defendant and because the defendant had calmed Cecchini down 10 not long before that about a dispute he was having with other 11 When Cecchini's mother found out about the package, she 12 thought it was drugs and wanted it out of the house.

In addition to these witnesses, there were former
law enforcement officers who testified and what they said
equally supported what Valenti told you.

Cecchini told Valenti and Valenti came and picked it up

18 (Exhibit published.)

shortly after that.

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Former Police Officer Joseph Rossi told you how on December 13th, 1978 he ticketed a black Ford van for a parking violation. That van turned out to be the van used in the Lufthansa heist. The van matches Valenti's description of the getaway van he and the other robbers used early that morning. And you can see Detective Rossi in the photo in the black leather jacket.

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1 And former FBI Special Agent Ralph Lannuzzi told you 2 he inspected that van after it was recovered from the street. 3 He believed it to be stolen based on the state of its 4 ignition, and that he found yellow Styrofoam chips in a well 5 by the right rear door of the van. Yellow Styrofoam chips 6 described the same way as the ones Valenti told you he saw in 7 the boxes of cash in the vault. The same Styrofoam chips he 8 had trouble burning when he was trying to burn the evidence of 9 the heist next to the Christmas trees because they would fly 10 out the chimney. You also heard from law enforcement witnesses who 11 12 did surveillances in the weeks following the heist. 13 Mika, for example, testified that on December 27th, 1978 he 14 saw the defendant's blue Lincoln registered in his wife 15 Theresa Asaro's name arrive at Jimmy Burke's house at 16 160-09 78th Street in Queens and stay there for 25 minutes before leaving the residence. The next day, former Special 17 18 Agent Richard Leahy saw the same car, the defendant's Lincoln, 19 arrive and stay at Jimmy Burke's residence for over a half 20 hour and then depart with more than one male in the vehicle. 21 And on December 26th, 1978, just a few days before the 22 surveillances of the defendant's Lincoln at Jimmy Burke's 23 house, former Special Agent John Keenan saw Tommy DeSimone, 24 Angelo Sepe and a female enter a car and drive it to Jimmy 25 Burke's house. The defendant in other heist participants'

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1 presence, multiple visits to Jimmy Burke's house, so soon 2 after the heist within two weeks after, confirms all of these 3 co-conspirators's close criminal relationship, in that they 4 trusted each other at that extremely delicate time. 5 And the other cooperating witnesses each supported what Valenti said in different ways. Vitale, Zuccaro and 6 7 Ruggiano; they hadn't been at the heist firsthand, but based 8 on their mafia ties they each caught a glimpse or heard 9 something important about it after it happened. 10 testified that he drove Joe Massino, then a captain, to a 11 location where he got out of the car and walked and talked 12 with the defendant briefly. After that, Massino got back into 13 the car with Vitale -- sorry, with Massino carrying a case, 14 opened the case and Vitale saw that it was filled with gold 15 Massino told Vitale in that moment that the jewelry chai ns. 16 was from Lufthansa and he ended up giving Vitale a gold chain 17 This incident is consistent with Valenti's account 18 about the Lufthansa jewelry the defendant gave Massino as a 19 tribute when he was the defendant's captain. 20 Anthony Ruggiano, Junior, a Gambino family associate 21 who ran in a different mafia circle than the defendant and 22 didn't know Gasper Valenti's name, corroborated Valenti as 23 well. Ruggiano told you that while he was in jail, his

father, Fat Andy, the powerful Gambino family soldier who was

close to the defendant's father and the defendant, visited

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1 Ruggiano in jail and told him in a private, quiet conversation 2 that the defendant had brought jewelry from the Lufthansa 3 heist to Fat Andy at the jewelry store that he and Tony Lee 4 Fat Andy confirmed to Ruggiano, who was surprised that 5 the defendant was involved in the heist, that the defendant 6 had participated in it. And Fat Andy told his son that the 7 defendant and Jimmy Burke had chosen to bring this jewelry 8 from Lufthansa to him and Tony Lee. 9 Later in 1980 after Ruggiano had been released from jail, he saw his father at that gold store that he and Tony 10 The same one on Liberty Avenue that Valenti 11 testified about, the store that he said the defendant had 12 13 brought jewelry to to give to Tony Lee to fence. Ruggi ano 14 said his father, Fat Andy, complained when he saw them around 15 that time over and over again that he had not said no to Tony 16 Lee when Tony Lee wanted to divide the proceeds from that 17 jewelry among all of the partners in the gold store. Fat Andy 18 said he had to get his head examined, he was so stupid to 19 agree to only get 125,000 for that jewelry. And Ruggiano 20 understood that the defendant and Jimmy Burke also had gotten 21 handsome cuts of the substantial profits from that fenced 22 jewelry that they had brought to the gold store. 23 On these subjects Ruggiano's testimony fully 24 supports Valenti's that the defendant brought jewelry stolen 25 as part of the Lufthansa heist to Tony Lee to be fenced at his

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- 1 gold store on Liberty Avenue. And Ruggiano also confirmed
- 2 that his father operated that social club, Café Liberty, at
- 3 the time of and some years after the heist. And that it was
- 4 located on 84th and Liberty. That's where the defendant and
- 5 Gasper Valenti met after the heist and the defendant told
- 6 Gasper to watch his back.
- 7 Peter Zuccaro, too, corroborated Valenti's
- 8 testimony. Zuccaro, an associate of the Bonanno family in the
- 9 late '70s and early '80s, he testified that right after the
- 10 heist Frankie Burke, Jimmy's son, Zuccaro's close friend who
- 11 he had committed dozens of crimes together with, told Zuccaro
- 12 that Frankie stole the van that was used in the heist, that he
- 13 drove that van and went and did the robbery. That Gasper
- 14 Valenti was there in Vinny's, the defendant's capacity,
- 15 representing the defendant inside the airport on that robbery.
- 16 And that others were there, too.
- 17 MS. ARGENTIERI: I'm sorry, could we take a brief
- 18 break, Judge.
- 19 THE COURT: I'm sorry?
- 20 MR. MADIGAN: We need to take a brief break.
- 21 THE COURT: Yes. The Lunch is not here yet.
- MR. MADIGAN: I'm afraid we need to take a break,
- 23 Your Honor.
- 24 THE COURT: No, I am going to break.
- 25 MR. MADIGAN: Okay.

SAM OCR RMR CRR RPR

I'm just trying to figure out. THE COURT: lunch should be here by 1 o'clock, though, so what about if we resume at 20 minutes of 2, is that all right? 0kay. (Jury exits.) THE COURT: The Lunch is here. MR. MADIGAN: Thank you, Your Honor. THE COURT: Okay. (Luncheon recess taken.)

1	AFTERNOON SESSION
2	(In open court; jury not present.)
3	THE COURT: PI ease be seated.
4	Are we ready?
5	MS. COOLEY: Yes, your Honor.
6	THE COURT: Okay. Ask the jury to come in, please.
7	Are you going to want to break before you finish?
8	MS. COOLEY: Yes.
9	THE COURT: What time, approximately?
10	MS. COOLEY: Maybe an hour.
11	Thank you, your Honor.
12	(Jury present.)
13	THE COURT: PI ease be seated.
14	Go ahead.
15	MS. COOLEY: Thank you, your Honor.
16	Where we left off, we were talking about cooperating
17	witness Peter Zuccaro, and how he told you information about
18	what he heard from Frankie Burke about the Lufthansa heist
19	that supports what you heard from the other witnesses about
20	this predicate. He also told you not only that Frankie Burke
21	told him about the details of the heist and that Gasper
22	Valenti was sent on the heist as the defendant's
23	representative, but he also told you that in the end,
24	according to Frankie Burke, the defendant kept Gasper's end of
25	the Lufthansa money. He basically beat Gasper for it, but he

1 tried to blame that on Jimmy Burke. In other words, the

- 2 defendant made it seem to Gasper Valenti that Jimmy Burke had
- 3 kept his end, when really the defendant had beat Gasper for
- 4 it.
- 5 Peter Zuccaro also testified about a heated incident
- 6 he had with the defendant around the time of the heist. After
- 7 the defendant had been straightened out, where the defendant
- 8 threatened to harm Peter Zuccaro, threatened him with violence
- 9 over Peter Zuccaro's having shot his dog at his and
- 10 Giallanzo's body shop, the defendant was extremely angry at
- 11 Peter Zuccaro.
- 12 From Peter Zuccaro's perspective, he had killed the
- 13 dog that also belongs to the defendant's nephew, Bobby
- 14 Giallanzo, without permission. That night, the defendant
- 15 showed up at Peter Zuccaro's with Jimmy Burke, Frankie Burke
- 16 and Tommy DeSimone, key players in the Lufthansa heist. These
- 17 were these people with him. His purpose was to intimidate
- 18 Peter Zuccaro. The defendant threatened that he was going to
- 19 get Peter Zuccaro killed because Peter Zuccaro had killed that
- 20 dog. On these subjects too, Peter Zuccaro's testimony
- 21 supports what Valenti told you about the participants in the
- 22 heist, and more specifically that beef that the defendant had
- 23 with Peter Zuccaro over that dog.
- You have also seen documents that have helped
- 25 confirm and support some of the other testimony and evidence

- 1 you've seen and heard about the Lufthansa heist.
- 2 With respect to what Gasper Valenti told you about
- 3 the name of Afters Lounge, and that it had to be after
- 4 Lufthansa and that the defendant came up with that name,
- 5 Government's Exhibit 424 shows when the liquor license for
- Afters was issued, and it was December 22, 1978, for that 6
- 7 Afters Lounge at that address on Rockaway, and that, ladies
- 8 and gentlemen, is eleven days after the heist. So, that's
- 9 pretty clear proof that the name Afters had to do with after
- 10 Lufthansa and that's something the defendant came up with
- himself. 11
- 12 You have also seen the prison records of who visited
- 13 Jimmy Burke when he was in prison in the '90s, and not only
- 14 did Vincent Asaro and Jerry Asaro visit him and his children,
- 15 including Cathy Burke, he had visits from Danny Rizzo as well
- 16 as Paul Vario, all of whom were involved in the heist, Danny
- Rizzo being one of the participants, and Paul Vario being one 17
- 18 of the higher-up members of the Crime Family who got some
- 19 tribute as a result of the heist, and that's because Jimmy
- 20 Burke reported to Paul Vario in the Lucchese Family.
- 21 You also saw surveillance photos from Jimmy Burke's
- 22 wake when he passed away in 1996. And again, this is more
- 23 proof of the membership of that Lufthansa heist conspiracy and
- 24 who participated. People who visited the wake of Jimmy Burke
- 25 included, the top two photos, the defendant himself, and below

- 1 that, Danny Rizzo along with Jimmy Burke's daughter Cathy
- 2 Burke, Anthony Ruggiano, Jr., who testified at this trial and
- 3 was there to pay respects for his father, who was no longer
- 4 alive.
- 5 And again to the right is Danny Rizzo. And then you
- 6 have the defendant's own statements and conversations relating
- 7 to the heist. Although in these recordings it's clear that
- 8 the defendant is careful, very careful not to speak openly
- 9 about the most serious crimes he's committed, crimes he
- 10 doesn't want to name and doesn't want anyone outside his inner
- 11 circle knowing he was involved in, you'll notice, though, that
- 12 even though he doesn't want to speak openly about some of
- 13 these things, he speaks more freely about them when he's in a
- 14 private area and when he's speaking to trusted confidants like
- 15 Gasper Valenti, and in some instances, even though they don't
- 16 say Lufthansa heist or a specific crime, he and Gasper Valenti
- 17 and in some circumstances Danny Rizzo, who was also recorded
- 18 clearly, are on the same page about what they are talking
- 19 about.
- 20 You heard Gasper Valenti interpret some of those
- 21 recordings and tell you what was in his mind and what he
- 22 believes was in the defendant's mind when they spoke and
- 23 understood each other in those conversations.
- 24 What the defendant says and what he doesn't say in
- 25 those conversation is so telling, because in essence, in some

- 1 of them, he is admitting to participating.
- 2 It's also telling that in these conversations, the
- 3 defendant doesn't correct Valenti when he mentions something
- 4 or suggests that the defendant was involved in something.
- 5 You've heard the defendant multiple times on these recordings
- 6 jump down Gasper's throat over something that he said, that he
- 7 disagreed with, or correct him immediately over something, and
- 8 when something big like this comes up, about a serious crime
- 9 or an implication the defendant was involved in a serious
- 10 crime and the defendant says nothing, that should be proof
- 11 that he participated. This is not something crazy that Gasper
- 12 Valenti has come up with, putting him in something he didn't
- 13 do. Keep that in mind when you listen to the recordings.
- So, if we could, we'll now play the first recording
- 15 that relates to the Lufthansa heist.
- 16 (Tape plays.)
- 17 (Tape stops.)
- MS. COOLEY: Here, the defendant mentions the name
- 19 Dominick Gennaro, which you know, based on what Gasper Valenti
- 20 told you, that was one of the people, one of the trusted
- 21 people that they brought Lufthansa proceeds to hold. So, his
- 22 name comes up casually in conversation, and they both know who
- they are talking about.
- We can now turn to the next recording.
- 25 (Tape plays.)

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1 (Tape stops.) 2 MS. COOLEY: You heard Gasper Valenti testify that 3 when they referred to "that thing" or in this case with "that 4 there," they are talking about the Lufthansa heist. They are 5 talking about Danny Rizzo in this conversation, who 6 participated in the heist. He was there in the lunch room 7 talking to Gasper when the employees were being restrained, 8 and here, they are talking about how Danny is complaining 9 about not having any money, and Valenti is saying, I think 10 he's still got money, meaning I think he still has something 11 left over from the heist, given how much money they made. 12 the defendant corrects him and says, No, he's still got F with 13 that there. That's what he told me. 14 So, they are completely on same page, and they are 15 talking about another participants in the heist and whether he 16 still has money from it, and it's almost like they are able to 17 complete each other's sentences on this subject. 18 We'll now turn to Government's Exhibit 218-A. 19 (Tape plays.) 20 (Tape stops.) 21 MS. COOLEY: This is one of the strongest sources of 22 evidence about the defendant's participation in the Lufthansa 23 heist. If you listen to this conversation, you can see that 24 they are talking in the beginning about -- the defendant says,

We never got the right money what we were supposed to get,

1 meaning, We never got the end we were entitled to, that we

- 2 were supposed to get from this notorious, huge robbery they
- 3 participated in. He's complaining that they got F'd all
- 4 around, that F'ng Jimmy kept everything, meaning Jimmy Burke.
- 5 This is consistent with what you heard Peter Zuccaro
- 6 say from what he heard from Frankie Burke. The defendant was
- 7 making it seem like Jimmy Burke had kept everything as an
- 8 excuse, so that Gasper Valenti wouldn't be wondering if he had
- 9 taken some of his. So, they are talking about that.
- 10 And Gasper also corrects him, because he's saying,
- 11 We didn't have it. What are you talking about? They did get
- 12 some of their shares. And he's saying, We had it. We gambled
- 13 it. He kept the money from the other thing, the other guys,
- 14 meaning they were participants that you heard were no longer
- 15 alive after the early '90s, and those shares Jimmy Burke kept.
- 16 But they did get a piece of it. They did get a piece and they
- 17 spent the money, like you heard.
- The defendant spent money on the house in Moriches.
- 19 They gambled some of their money. The defendant is bitter
- 20 about not getting as much as he wanted, was a common theme in
- 21 some of these recordings. They are on the same page about
- 22 what they participated in, and what they were entitled to, the
- 23 fact that Jimmy Burke was keeping more than he was due, and
- 24 here there's no sign that the defendant doesn't know what
- 25 Gasper Valenti is talking about or that the defendant thinks

1 he's completely full of BS. They are on the same page, and 2 they know what's being discussed, and it's the Lufthansa heist 3 proceeds. 4 Now, turn to the next recording. This is Government's Exhibit 221-I. 5 (Tape plays.) 6 7 (Tape stops.) 8 MS. COOLEY: So, a common theme in their 9 conversations is whether Gasper Valenti borrowed money and 10 didn't pay it back, or money in general, and whether they have 11 it or they don't. 12 Here, they are talking about -- they are using as a 13 marker "that thing." Again, they don't need to say it. They 14 don't need to define it. They are on the same page, and they 15 know they are talking about Lufthansa, and that's a marker in 16 their life, especially in terms of money, of before and after, 17 what they had before and what they had after. This is another 18 conversation where they are picking up what the other person 19 is putting down without having to be explicit about it. 20 I'll now turn to the next recordings, which is 21 Government's Exhibit 232-B.

22 (Tape plays.)

23 (Tape stops.)

24

25 MS. COOLEY: So, this is part of a longer discussion

between Danny Rizzo and the defendant and Gasper Valenti,

about people they knew back in the day, and they are talking

about Robert's Lounge, which was their main hangout in the

years and the months leading up to the Lufthansa heist, and

5 that's what they said Jimmy Burke had and the defendant had,

6 and they were there all the time. They are reminiscing about

7 people they encountered there. This is a pretty easy subject

8 for them to cover. They were there and they lived it.

9 Go to the next recordings. This is Government's

10 Exhi bi t 232-D.

11 (Tape plays.)

12 (Tape stops.)

MS. COOLEY: So, again, names coming up from that

14 part of their life, Paulie Vario, people they encountered in

15 Robert's Lounge, similar theme.

16 I'm going to play Government's Exhibit 232-A now.

17 (Tape plays.)

18 (Tape stops.)

19 MS. COOLEY: I'm sorry. We skipped ahead. That was

20 the last recording that I was going to play for this portion.

There's another way that you know that the defendant

22 chose Gasper Valenti to go in on the Lufthansa heist, that he

23 trusted him enough to send him on that high stakes robbery,

24 the ultimate score. For that matter, that he trusted Gasper

25 Valenti enough to involve him in burying the body of Paul Katz

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- 1 a decade earlier, the man he and Jimmy Burke had murdered.
- 2 You know that from the evidence you heard and saw about
- 3 Richard Eaton, another man Jimmy Burke killed, whose body was
- 4 found in a trailer in a lot next to Valenti's house at 1483
- 5 Blake Avenue, down the hole, in Brooklyn. This is the same
- 6 house that Gasper was living in at the time of the Lufthansa
- 7 heist, where they went back to when they were figuring how
- 8 much they had stolen and how much cash there was and jewelry.
- 9 And this is the lot to the side of that house. This
- 10 is 1483 Blake. This is the lot where the trailer was in which
- 11 Richard Eaton's body was discovered.
- Government's Exhibit 138-B shows one of the crime
- 13 scene unit photos of that trailer, when the crime scene unit
- 14 responded and found Rich Eaton's dead body inside on that
- 15 February night in 1979, just months after the Lufthansa
- 16 height.
- 17 You heard from the medical examiner from Floriana
- 18 Persechino, and she told you that Eaton's body, which had not
- 19 yet been identified at the time it was found and brought to
- 20 the medical examiner's office, that body was frozen when it
- 21 got there. It had to thaw out, and that's why they couldn't
- 22 do the autopsies immediately, and you heard about this whole
- 23 incident from Gasper Valenti.
- 24 He explained to you the entire story and how he had
- 25 seen Richard Eaton at Afters Lounge the night that he was

- 1 killed, and he saw what he ate that night. It was shrimp
- 2 He heard his conversations, he saw him laughing, and
- 3 that was the first time he had ever seen him or met him.
- 4 And after that, he closed up Afters, because he had
- 5 a role there where he closed it up occasionally. He was the
- 6 And he goes home and he goes to bed, and then he
- 7 wakes up when someone knocks on his window, and that person is
- 8 Jerry Asaro, and he comes to say they need to dig a hole
- 9 basically for a body, and he's sending word from the defendant
- 10 that this needs to be, and Jerry and Gasper can't dig a hole,
- because the ground is frozen. That's how cold of a night it 11
- 12 is on February 18, 1979. The fact that the body was in this
- 13 state when it was found that it was frozen and the autopsies
- 14 couldn't even being performed is another way you know that
- 15 what Gasper Valenti is saying is something you can consider
- 16 and rely upon.
- 17 Valenti also told you that the defendant, Jimmy and
- 18 Frankie Burke arrived with Eaton's body in the car trunk.
- 19 When they decided it was too cold to dig a hole in the ground,
- 20 they tried to put the body temporarily in this trailer, the
- 21 trailer you see in Government's Exhibit 138-B. And you know
- 22 from what Gasper Valenti told you that that plan didn't work
- 23 out so well, and that kids found the body in there, and the
- 24 police responded, and Jimmy Burke was very angry that it had
- 25 been discovered in that way.

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1 You also heard from Gasper Valenti that Jimmy Burke 2 was arrested after that. Now, why is the story of Richard 3 Eaton important here? It involves many of the same players 4 that were central to the story of the Lufthansa heist, the defendant, Jimmy Burke, Gasper Valenti, Frankie Burke, and it 5 6 also involves Jerry Asaro, the defendant's son, which 7 parallels what Jerry Asaro did, the role the defendant made 8 him play along with Valenti a few years later in the 1980s, 9 when it came time to remove Paul Katz's body. This evidence 10 is further proof of how closely, how completely the defendant, 11 Jimmy Burke, Valenti and their sons trusted each other, so 12 much so that they could bring each other dead bodies without 13 fear that anyone would go to the police, and they could be 14 sure that they had get the help they needed and, as the Mafia 15 required, secrecy and silence. 16 How does this evidence show you whether you can rely 17 on Valenti's testimony in this trial? It shows you that 18 because he is corroborated by the most specific details, 19 things that someone could not make up. 20 For example, Dr. Persechino told you that based on 21 autopsies, it was possible for them to tell how recently he 22 had eaten by the time that he was killed. 23 "QUESTI ON: What, if anything, does the presence of 24 an identifiable food tell you as a medical examiner about how 25 recently Mr. Eaton had eaten at the time of his death?

1 "ANSWER: It means that he had eaten within hours of 2 his death."

3 And that makes sense when you look at Gasper

4 Valenti's testimony about how he saw him eating that night at

5 Afters Lounge, shortly before this incident occurred and Jerry

6 Asaro knocked on his window, asking him for help to dig a

7 hole.

And you heard from Dr. Floriana Persechino and you 9 saw in the records from Government's Exhibit 470 what was in 10 Richard Eaton's stomach when that autopsy was performed, and 11 you can see it in red there. There is also some shrimp.

That level of detail is so specific. That's something you could not make up, and that's another way for you to decide whether you can rely on that testimony, and I submit that you can, based on all of the evidence in this case.

17 You also heard the story from Gasper Valenti about 18 the time that the defendant got into a dispute with someone 19 named Mickey Brown's nephew at his fence company. And that 20 involved that nephew thinking that the defendant was seeing 21 She worked at the fence company. And there was an 22 encounter with the nephew, and it got physical. Jerry hit him 23 with a gun, and the gun discharged and the guy got shot. Who 24 is the defendant's first call to when that happens? It's 25 Jimmy Burke. And Jimmy Burke came when the defendant called.

1	Gasper Valenti explained that Jimmy Burke was really
2	well-known, and he would do what he had to do. Basically, if
3	there was a major problem that was going to be where someone
4	was going to get shot or whatever it may be, Jimmy Burke was
5	the person to go to, being the caliber that he was known for
6	in the neighborhood. That's why he was there.
7	Jimmy Burke helped resolve that situation for the
8	defendant without additional violence, and that proves again
9	that they were each other's muscle. They were each other's
10	emergency lifeline. They helped each other resolve disputes,
11	clean up messes, preserve their status in organized crime, and
12	get rid of problems they had in their respective Crime
13	Families.
14	For all of these reasons and based on all of this
15	evidence, we have proven the crimes alleged in Racketeering
16	Act Three relating to the Lufthansa heist beyond a reasonable
17	doubt.
18	This is one more recording relating to Jimmy Burke
19	that I would like to play, which is Government's Exhibit
20	232-D.
21	(Tape plays.)
22	(Tape stops.)
23	MS. COOLEY: So, this kind of speaks for itself.
24	But it is, again, the defendant speaking with Danny Rizzo, a
25	participant in the Lufthansa heist, about Jimmy Burke and his

1 temper. And basically, he was a funny guy, but if you got him

- 2 mad when he drank, he didn't need to complete the sentence.
- 3 He was a violent and dangerous man. That's part of why he was
- 4 so useful and his partnership with the defendant was so useful
- 5 to him in organized crime.
- 6 We'll now turn to Racketeering Act one.
- 7 Racketeering Act One charges the defendant with extortionate
- 8 extension of credit conspiracy, extortionate extension of
- 9 credit, extortionate collection of credit conspiracy,
- 10 extortionate collection of credit, state law extortionate
- 11 conspiracy, and state law extortion.
- Putting it more simply, these charges allege that
- 13 the defendant agreed that he or someone else would participate
- 14 in loan-sharking essentially or a conspiracy to commit
- 15 Loansharking in approximately 1968 through 1990. Any of these
- 16 crimes in this Racketeering Act alone is sufficient to
- 17 establish Racketeering Act One, and we've proven all of them.
- Now, the judge will instruct you as to what it means
- 19 to use extortionate means to collect or attempt to collect an
- 20 extension of credit, and to conspire to do so, but put simply,
- 21 it means that there needs to be some kind of threat intended
- 22 to make another person repay a debt, regardless of the source
- 23 or validity of the debt.
- 24 Here, there's been extensive evidence about the
- 25 defendant's involvement in loansharking. And for all of his

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1 customers, the defendant's ability to collect on the 2 loan-shark or shylock loans they were called was backed up by 3 who he was in the Bonanno Organized Crime Family. 4 The intimidation factor that came with that 5 reputation went very, very far in insuring that the 6 defendant's customers would pay him or whoever he designated 7 to collect for him, and in many cases, Gasper Valenti. As 8 Valenti explained, he was involved for essentially the entire 9 period of Racketeering Acts One in the defendant's 10 loansharking business. The defendant would put money out on 11 the street as Ioan-shark or shylock Ioan, charge a high rate 12 of weekly interest or vig or juice on those loans, and paying 13 that interest didn't reduce the principal. That original 14 principal was still owed in full. This is a way for the 15 defendant and for members and associates of organized crime 16 generally to make a profit quickly. 17 (Continued on next page.) 18 19 20 21 22 23

24

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Summation -	Cool	ey
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1 MS. COOLEY: (Continuing) 2 Gasper Valenti testified that he played the role of 3 collecting for the defendant in his loansharking business, 4 beginning in the sixties. 5 The Loansharking customers Valenti told you about 6 included Bobby Marshall. You may remember, they referred to 7 him as the neighborhood drunk. 8 He had taken out a-hundred-dollar loan. 9 interest on that I oan was ten percent or \$10 a week according 10 to Mr. Valenti. 11 And how often did you collect on the loan, Valenti 12 was asked on the stand. 13 Answer: Forever. 14 As Valenti told you, sometimes the defendant would 15 collect a second time from Bobby Marshall the ten-dollar 16 interest despite knowing Valenti had already collected it once 17 that week for him. And Valenti testified that Marshall had 18 already paid back the loan in full many times over but that 19 the defendant kept extracting weekly interest anyway. 20 And in the timeframe there was also a guy named 21 Whitey, a concrete guy, a painter named Joe Zipp, who had 22 pretty much the same Loanshark arrangement that Bobby Marshall 23 did with the defendant and Gasper Valenti. 24 Then in the late sixties and early seventies, the

defendant started telling Gasper that he was getting money for

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1 his Loansharking business from Jimmy Burke. He would borrow

- 2 money from Jimmy and then he would put that money out on the
- 3 street as Loanshark monies and make a profit that way. He
- 4 would give Jimmy a percentage, as Valenti told you.
- 5 How much?
- 6 Maybe one, two points.
- 7 He would make money off of that too. He would make
- 8 money by maybe giving it out at a higher interest rate and so
- 9 on.
- 10 What Gasper Valenti also told you was after the
- 11 Lufthansa heist the defendant's loansharking business was
- 12 still in full effect. But it changed at that point.
- 13 After the robbery, he was asked, what happened with
- 14 the nature of the Loansharking business or its size.
- Valenti answered, it got bigger, larger money was
- 16 given out.
- 17 He was asked, what was that money from?
- 18 Answer: Lufthansa.
- 19 Proceeds from the heist itself were being put out on
- 20 the treat as shylock loans.
- 21 He also got new Loansharking customers in the
- 22 timeframe, the late seventies and the 1980s.
- 23 Frankie Hot, a bookmaker, was one of the customers.
- 24 Knobby was someone who you saw in the surveillances
- 25 from the 1980 s visiting the defendant at his 101st Avenue

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club. He was a person who ran numbers, a controller.

- 2 Anthony Santora and his partner John.
- 3 And then there was also John Zaffarano who you heard
- 4 testify at this trial. He took out loans from the defendant
- 5 and then paid him the interest for a period of time but his
- 6 story was pretty unique.

- His father, Uncle Mickey Zaffarano, who was a made
- 8 and powerful member of the Bonanno family had taken out a loan
- 9 from Vincent Asaro for \$100,000. Valenti testified that
- 10 Mickey came to the club, Vinny's social club, and Vinny gave
- 11 him the money. It was a hundred-thousand-dollar loan and the
- 12 interest was two points. He had that Ioan maybe less than a
- 13 year and he paid it back.
- But then Mickey Zaffarano died in about the 1980s
- 15 and the defendant and Gasper Valenti went to his funeral. At
- 16 that funeral, the defendant approached John Zaffarano, whose
- 17 father had just died, told him that his father Mickey owed him
- 18 and Gasper \$100,000 from that I oan.
- 19 Gasper knew at the time and the defendant knew at
- 20 the time that Ioan had already been paid back, and even
- 21 John Zaffarano acknowledged when he testified that he believed
- 22 that that I oan had been paid back. Yet, he still ended up
- 23 taking on that supposed responsibility and paying the
- 24 defendant on that I oan.
- 25 He told the defendant okay, I'll pay it. It's my

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1 father's debt. I'll take care of it.

- 2 He made a weekly interest payment on that loan for a
- 3 while. It didn't diminish the principal that was supposedly
- 4 due.
- 5 This were other customers named Johnny Stump who
- 6 took out Loans, John Rondanelli, who was Anthony Santoro's
- 7 partner.
- 8 And just to make it clear, for the Mickey Zaffarano
- 9 Ioan of \$100,000 initially at two points interest, the weekly
- 10 interest payment on that was \$2,000 due weekly. That's the
- 11 amount of money the defendant was making per week on a loan
- 12 like that of that size.
- 13 You also heard from other witnesses about the
- 14 defendant's Loansharking business over this Long period of
- 15 time. Peter Zucarro was aware of the defendant's Loansharking
- 16 in part because he was business partners with Robert Giallanzo
- 17 which you heard about in connection with that dog incident.
- Peter Zucarro testified that he knew some people who
- 19 borrowed money from the defendant, several people. Sal
- 20 Pugliesi he said borrowed money from the defendant on a couple
- 21 of occasions. And Peter also knew people who collected for
- 22 the defendant on those loans, who got the interest payment to
- 23 bring back to the defendant. One of them was his own business
- 24 partner, the defendant's nephew, Robert Giallanzo, who was an
- 25 associate around the defendant at that time.

1	You also heard from Anthony Ruggiano who told you
2	that after the Lufthansa heist he saw in the early eighties
3	the defendant at the racetrack and he seemed to have more
4	money. He was dressing sharper. He was betting larger
5	amounts at the hundred-dollar window.
6	For all of these reasons, we have proven beyond a
7	reasonable doubt the offense charged in racketeering act one.
8	Racketeering act four charges the defendant with the
9	arson of 86-01 Rockaway Boulevard in Ozone Park, the building
10	where his nightclub Afters Lounge was located. And he is
11	charged with conspiracy to commit that arson between
12	January 1980 and January 1981.
13	Gasper Valenti testified about this arson. He told
14	you how he and Jerry Asaro, the defendant's son, at the
15	defendant's direction, committed that arson at that location
16	of that building that had housed the Afters Lounge.
17	He was asked when he testified about whether that
18	building had been rented to someone else around that time.
19	And he said yes.
20	Question: How did you learn that?
21	Answer: Through Vinny.
22	What happened?
23	Dominic, the owner of the Villagio Italia
24	Restaurant, Dominic Cataldo, who you have heard about earlier
25	today and throughout this trial, he owned that restaurant and

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1 he told the defendant that it was rented to African-American 2 people as an African-American nightclub, a supper club. 3 What did Dominic Cataldo say about that? He didn't 4 appreciate that. He wasn't happy with that situation. 5 So what did he ask you, Gasper Valenti, to do, the defendant? 6 7 Burn it down. 8 Who told you to burn it down? 9 The defendant. 10 What did he tell about who to do it with? 11 With Jerry. 12 Gasper Valenti told you about the businesses on that 13 block, which you can see in Government Exhibit 135 on the 14 Afters was farther to the left on that block on 15 Rockaway. Park Haven Towing was to the right of that. King 16 Fence, a fence company associated with the defendant, was at 17 letter C, and Villagio Italia, Dominic Cataldo's restaurant,

18 was at that corner of that triangle area, at letter D.

19 So once Gasper Valenti had been asked to do this,

20 and remember that he had committed arsons as an associate in

21 the sixties, that he often did with the defendant's knowledge,

22 with the defendant's approval and this was something that

23 wasn't knew for him, especially wasn't knew as part of their

24 rel ati onshi p.

So he was asked to burn it down and he and Jerry

1	Asaro went and did that. They burned the nightclub down.
2	He was asked: On the night you went to burn it
3	down, who were you with?
4	Answer: Jerry.
5	Question: What did you do to prepare?
6	Answer: Took a can of gas, went through the
7	building pouring gas on numerous places, all around the
8	building. And then the backdoor, we had a tennis ball that I
9	poured gas on and Jerry lit the ball and tossed it into the
10	building so every time it hit a spot where the gas was it
11	would ignite. And then we closed the backdoor, the side door
12	got in the car and left.
13	Question: Did it burn down?
14	Answer: Yeah.
15	Question: After that, did you have a meeting with
16	Dominic, meeting Dominic Cataldo?
17	Answer: Yes.
18	Question: Who else was there?
19	Answer: Jerry and Vinny.
20	What happened?
21	Dominic gave us a hug and a kiss and a thank you.
22	This was in a way keeping the peace, doing a favor
23	for another member of organized crime, though a different
24	crime family, and this was also a common occurrence among
25	crime families, to protect each other's interest and to look

out for each other as they saw their interest at that time.

Summation - Cooley

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In addition to Gasper Valenti's testimony about this
arson you also heard law enforcement testimony confirming that
that building was burned out and doing spot-check on it in
September 1981. And also seeing the defendant's car, which is
registered to Theresa Asaro, his wife at that time, in the
vicinity of Afters and King Fence; and also a car registered
to the owner of the building, Fanara, and a car registered to

This was from the September 16, 1981,

10 surveillance by Vincent McNally.

Patricia Barbarito.

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11 And again, that name, Barbarito, links back to 12 Gasper Valenti through his ex-wife.

For these reasons, we have proven beyond a reasonable doubt the offenses charged in racketeering act four.

Racketeering act five charges the defendant with soliciting the murder of his cousin, Gasper Ferreri, Junior, between January 1, 1983 and December 31, 1985. We have proven this racketeering act beyond a reasonable doubt.

I expect Judge Ross will instruct you that when someone commits murder solicitation under New York State Law, they have to do so with intent that someone else engage in a murder, and with that intent they have to solicit, request, command, importune or otherwise attempt to cause that other person to engage in such conduct.

1	Here, the evidence has shown that the defendant
2	solicited or attempted to cause Gasper Valenti to participate
3	in murdering their cousin, Gasper Ferreri, Junior, after
4	Ferreri cooperated with law enforcement and testified for the
5	government in the prosecution of Robert Giallanzo, who we were
6	just talking about, the defendant's nephew, as well as an
7	associate reporting to the defendant in the Bonanno Family.
8	Gasper Ferreri's cooperation with law enforcement
9	and his following through with that by testifying against
10	Robert Giallanzo at his federal criminal trial in this
11	courthouse, which making matters even more serious, ended in a
12	federal conviction and a substantial prison term for Robert
13	Giallanzo, that went against every principle the defendant
14	lived by as a made member of the Bonanno Family.
15	The defendant's son Jerry Asaro was infuriated by it
16	too. And ultimately the defendant made clear to Gasper
17	Valenti his intent to move forward on killing Ferreri with
18	Val enti's help.
19	Gasper Valenti testified about the sequence of
20	events following the boat.
21	Bobby Giallanzo's boat and a false insurance claim
22	that he filed on that boat, and also Gasper Ferreri's mom,
23	Terry, subsequent contact with law enforcement.
24	And the general sequence of events is as follows:
25	Bobbie Giallanzo moved his boat to Gasper Ferreri's,

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1 the victim's house, in Long Island.

- 2 Then Bobbie Giallanzo made a false complaint of a
- 3 stolen boat, hoping to get insurance proceeds from that.
- 4 You heard from the actual police officer who took
- 5 that complaint from Bobby Giallanzo in 1981. His name was
- 6 Robert Soda.
- 7 Then Gasper Ferreri's mother spoke to law
- 8 enforcement.
- 9 Following that contact with law enforcement, Bobby
- 10 Giallanzo was arrested in a federal fraud case based on his
- 11 conduct relating to that boat and the insurance fraud.
- 12 Then Gasper Ferreri, along with his mother, Mary
- 13 Theresa, testified at Bobby Giallanzo's trial as prosecution
- 14 witnesses and of course Bobby Giallanzo was a defendant in
- 15 that case.
- 16 After that, Bobbie Giallanzo was convicted of
- 17 federal mail fraud in late 1983, and he was sentenced the
- 18 following spring to three years in prison, \$4,000 as a fine,
- 19 and restitution.
- You have heard the paries' stipulation which is in
- 21 evidence as Government Exhibit 800 about the details of who
- 22 testified at that trial, including Gasper Ferreri, Junior and
- 23 his mother on October 31, 1983 and the outcome of the trial,
- 24 which I just summarized for you.
- 25 And what other evidence proves the defendant's guilt

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1 of racketeering act five?

- 2 Gasper Valenti's testimony, he was asked, how did
- 3 you know that Gary Ferreri, Junior testified at the trial,
- 4 meaning the trial of Bobby Giallanzo.
- 5 Answer: Vinny told me.
- 6 Question: What was his demeanor when he told you?
- Not pleasant, very unpleasant, that he testified as
- 8 a stool pigeon, as a rat.
- 9 What was your understanding about why he was upset?
- 10 Because you don't do things like that.
- 11 Li ke what?
- Talk to law enforcement agencies, and he should have
- 13 known better.
- 14 Jerry wanted to kill him. Vinny said take it easy.
- 15 You know, you're getting ahead of yourself. He's a rat. He's
- 16 a stool pigeon. He's your cousin. Let's see what's going to
- 17 happen with this.
- 18 After that, did you and Vinny see Gary Ferreri,
- 19 Juni or?
- 20 Yes.
- 21 When you saw him, did you say hi to him?
- 22 No.
- Why not?
- 24 Because I was with Vinny. Vinny didn't speak to him
- 25 so I didn't speak to him.

Summation	_	Cool	еу
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1	Shortly after that, Gasper Ferreri, Junior Left.
2	Question: Before Gary Left, what happened?
3	Answer: It was brought up again, about killing him.
4	Who brought it up?
5	Jerry brought it up.
6	What did Vinny say?
7	He said we'll do something. Just relax. Take it
8	easy. Just relax. Stop pumping it up.
9	After that, what did the defendant say to you?
10	He said, you know, we're going to have to do
11	something. And I went to my cousin and I told him, my cousin,
12	Gasper, you know, have your son get out, leave. Meaning
13	Valenti went to talk to Gasper Ferreri, Junior's father,
14	Gasper Ferreri, Senior. He said, something's going to be done
15	and if it happens, it's going to come through me. Meaning
16	Valenti. So I would forewarn you, because I could never do
17	that to a I could never ill anyone and especially my
18	cousi n.
19	What about the last time that you discussed it with
20	the defendant was different?
21	I felt he really wanted to.
22	Is that why you warned your cousin Gasper Ferreri,
23	Seni or?
24	Yes.
25	What did you tell him?

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1 Have him get out of town. Go someplace. Just stay 2 out of sight. Out of sight, out of mind. 3 I'm showing you now Government Exhibit 476, which is 4 in evidence. It's a record that shows the arrest of Bobby 5 Giallanzo in 1977, which is a few years before the charged 6 murder solicitation. But as this record shows, the defendant 7 and his nephew and associate Bobby Giallanzo had a very close 8 relationship and a close criminal relationship. Giallanzo had 9 been arrested at that time and it was the defendant who met 10 Giallanzo at the precinct and took custody of Giallanzo's 11 cash, \$1,900 that was on his person at the time. 12 And you also heard about the defendant's heated 13 threats of violence to Peter Zucarro over the death of his and 14 Bobby Giallanzo's dog at their auto body shop. That shows you 15 how the defendant saw Bobby Giallanzo's problems from the a 16 Mafia standpoint as his own and had no difficulty trying to 17 resolve them through the use or threat of force. 18 THE COURT: Excuse me. I think it would be a good 19 idea if we all just stood up and stretched. 20 (Pause.) 21 Okay. Please be seated. 22 Those of you in the back, please sit down. 23 Go ahead. 24 MS. COOLEY: Thank you. 25 The evidence has shown that the defendant shunned

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1	informants and proceeded to punish them with violence or have
2	others do so for him when he or his crew members are at risk
3	of getting arrested or pinched or worse, convicted.
4	Taking together, the evidence proves racketeering
5	act five beyond a reasonable doubt, the defendant
6	intentionally solicited the murder of Gasper Ferreri, Junior.
7	Racketeering act six charges the attempted robbery
8	of an armored car. Specifically, of an armored car driver,
9	sometime between January 1984 and December 1986.
10	Gasper Valenti testified about this incident which
11	was a failed robbery attempt that actually made it difficult
12	for him to be in good stead with the defendant because there
13	was another attempted robbery that didn't work out around the
14	same time involving a payroll, the hope of getting, robbing
15	payroll from someone. It turned out they only had papers in
16	the bag that they robbed.
17	So in this specific robbery, Gasper Valenti
18	testified about when it happened and who it was with. This
19	was the first of the robbery attempts that didn't work out
20	with Jerry Asaro.
21	Valenti was asked, what was the first robbery.
22	Answer: I think the first one was the Halloween
23	robbery.
24	Why do you refer to it as the Halloween robbery?

It happened on Halloween and we could wear Halloween

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1 masks to disquise ourselves. 2 When did you first learn about that robbery? 3 Jerry came to me with it. 4 What did you do? 5 I told him, did you speak to your father about it. 6 And he says, yes. He already had spoken to Vinny about it. 7 Who else was going to be involved in that robbery? 8 Frankie Lap and Jimmy. 9 Who was Frankie Lap? 10 He was an associate of the Gambinos. 11 Did you testify earlier about Frankie Lap having a 12 hunting lodge with Jerry Asaro? 13 Yes. 14 Who was the other person who was going to be 15 i nvol ved? 16 And the other person was an associate of Frankie Lap 17 named Jimmy. 18 You heard Gasper Valenti testify that all of them 19 decided to attempt to rob an armored car on Halloween and they 20 did that so that they could more easily disguise themselves 21 with masks. And Jerry and Frankie Lap had a very close 22 relationship and had committed crimes together in the past. 23 So they approached this car and they were armed and 24 they got to the side door and the door was locked. So the 25 attempt, the attempted robbery failed.

You heard Gasper Valenti talk about how angry the defendant was when he got back to tell him about what had happened. (Continued on next page.)

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1 (Continuing) 2 MS. COOLEY: And this just added to the difficulties 3 that Gasper Valenti was feeling in their relationship around that time in the mid 1980's. 4 5 So what are the other forms of proof of this 6 criminal association that led to that attempted, but failed, 7 robbery? 8 Where there was, by the way, an armored car driver 9 in the car when they approached, but the door was locked, so 10 they couldn't get in. You know that there was a close 11 criminal connection between these players because of the other 12 evidence in the case about Frank Lapetina and his very close 13 relationship and criminal relationship, for that matter, with 14 Jerry Asaro. You heard evidence in the form of a stipulation, 15 Government Exhibit 802, about how Jerry Asaro, who was on 16 federal probation or supervised release at that time, got 17 violated, had his supervised release violated because he had 18 invited people who had organized crime affiliation to his 19 daughter's wedding and the U.S. Probation Department found out 20 about that. And that's prohibited when you have a list on 21 supervised release preventing you from meeting with those 22 types of contacts. 23 And so, Frank Lapetina was one of those people who 24 had come to the wedding and had led to this problem for Jerry.

The other person was Robert Cotrone, Bam, who you'll hear a

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1 little bit more about in a minute. He was an associate who 2 was around Vinny, but then was, basically, purchased by Jerry 3 Asaro and then was around him. And he is the one who has that 4 auto body business on Liberty Avenue, close to the site of the 5 Paul Katz burial house. Frank Lapetina's phone number is 6 contained in Jerry Asaro's phone that was seized when he was 7 arrested, that's also in evidence in this case. And that 8 arrest was in January of 2014. And this whole incident also 9 comes up on a recording of the defendant, which I'll play for 10 This is Government Exhibit 222a. you now. 11 (Audio recording played.) 12 This shows that the defendant who had authorized and 13 encouraged this attempted robbery involving Frank Lapetina and 14 involving Jerry Asaro and their associate Jimmy, also had a 15 relationship with Frank Lapetina and trusted him as a criminal 16 associate, and he's telling Gasper Valenti in this 17 conversation about how he's a little bit frustrated with his 18 son, Jerry Asaro. He's not answering his phone now. 19 already been put in a difficult situation where he's probably 20 going to get violated because he had him at his daughter's 21 weddi ng. 22 And you also have in evidence an arrest report that

shows that Jerry Asaro was arrested with Frank Lapetina as an

associate in the early 1980's; and that the defendant, again,

was at the precinct to meet with his son who had been arrested

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1 with Frank Lapetina on that occasion. And so all of this 2 evidence shows the connection between these criminal 3 associates and provides further support to Gasper Valenti's 4 testimony that they had decided to do a robbery attempt 5 together and that the defendant was in on that, and he sought 6 to profit from that, even though this one didn't work out. 7 As I expect the judge will instruct you, the issue 8 is not whether the defendant was present for this attempted 9 robbery or for any of the other charged crimes. His approval 10 of these crimes and for the ones that were completed, his 11 profiting from them, made him just as guilty as those who were 12 there in person approaching the victim at gunpoint. 13 is also a fact of life in organized crime, members of the 14 mafia often protect themselves from getting caught on the 15 scene of a crime by sending out their associates to do the 16 dirty work. And when the scores succeeded, the made members 17 got a share of the proceeds. 18 Sal Vitale explained this when he told you about the 19 crimes that he committed when he was an associate reporting to 20 made member Joe Massino of the Bonanno family the 1970's 21 committing crimes with Massino that ranged from highjacking to 22 shylocking to murder. And as Vitale testified, he was asked: 23 Did Joe Massino carry out those crimes himself? 24 Answer: No.

What was his role?

Question:

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1 He was my guy. He's the guy I answer to. 2 doesn't have to be physically involved to get a piece. 3 Based on this evidence, we have proven Racketeering 4 Act Six, attempted robbery from an armored car driver beyond a 5 reasonable doubt. 6 Racketeering Act Seven charges the robbery and 7 conspiracy to rob an employee of Federal Express, and the 8 object of that robbery was gold salts, and the robbery occurred in February of 1984. If you find either of these 9 10 charges, either robbery or robbery conspiracy, proven then 11 that is sufficient to convict the defendant of Racketeering 12 And we've proven this racketeering act beyond a Act Seven. 13 reasonable doubt as well. Gasper Valenti told you about the 14 story of this score. He said that he had been away, he had 15 been on bad terms with the defendant. He came back to 16 New York and he had owed some people some money and the defendant was angry with him about that. But then Jimmy 17 18 Santos, who was their associate, also known as Vincent Santa, 19 who is featured on the right of this photograph decided to 20 involve Gasper Valenti in this score and give him this 21 opportunity to, basically, put himself back in the good graces 22 of the defendant. 23 (Exhibit published.) 24 After Jimmy Santos had approached Gasper Valenti 25 about doing this robbery, which he had an in for, there was a

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1 meeting with the defendant, where Gasper saw the defendant and

- 2 he greeted him with a warm welcome as Gasper Valenti
- 3 testified. He said: Did Jimmy, meaning Jimmy Santos, tell
- 4 you?
- 5 Valenti said: Yeah.
- 6 I says, everything is okay?
- 7 He says, yes.
- 8 He says, do you want to do this score? He says, but
- 9 I'm telling you now, everyone that you owe money to will be
- 10 pai d.
- 11 I says, okay.
- 12 And Gasper Valenti was asked: Was Jerry Asaro also
- 13 there for this?
- 14 Yes.
- What interaction did you have with him?
- 16 There was no real reaction. He was very cold
- 17 towards me and Vinny says: Is that the way you greet your
- 18 cousin? And he says, uh, you know, he gave me a hug, but that
- 19 was it.
- 20 And then Gasper Valenti was asked what happened next
- 21 with regard to this score.
- Jimmy Santos explained to him what it was all about
- 23 and that Danny Rizzo, you've heard a lot before, was supposed
- 24 to do this score, but he had gone four or five times to do it
- 25 and they couldn't do it. He and his people could not go

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1 through with it for whatever reason, so now Jimmy Santos was 2 going to bring this to a new person to do it with and that 3 person was Gasper Valenti and the defendant. Valenti was 4 asked on the stand: 5 Who was present when you discussed the score with 6 Jimmy Santos? 7 Answer: Vinny. 8 When Jimmy Santos said that Danny Rizzo was supposed 9 to do the score and didn't, who was Danny Rizzo? 10 And Valenti told you, he was a member of organized 11 crime, the Luccheses. 12 What did Jimmy say you were going to be robbing? 13 Gold salts. 14 What did he say about what that was? 15 And Valenti said: It's like a detergent, it looks 16 like, and they use cyanide to cure it. They come, they come 17 in a can, one ounce cans, and they add cyanide in the curing 18 of it and it turns into one piece of -- one ounce of gold. 19 Question: What was your understanding of what you 20 were going to do with the gold salt once you had it? 21 Jimmy had somebody in the city, an assay, they're

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meaning Jimmy Santos -- and said that Jerry Asaro couldn't go

Who else was supposed to participate in the score?

Jerry was supposed to go, but later on Jimmy came --

called assays, these people that cure all this.

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1 because Funzi was in trouble. Funzi is also on this board, 2 Alphonse Tarricone. Funzi was a made member of the Colombo 3 crime family also. And Valenti said that they came back, they 4 decided that the people who would be going in on this score were going to be Gasper Valenti, Dominic Caltaldo, Jimmy 5 6 Santos, Funzi, and Dominic Caltaldo's associate, a guy named 7 Bobby Joyce, who is also pictured at the bottom in this photo. 8 Valenti was asked who was actually going to carry 9 out the robbery, and he said it was going to be Bobby Joyce 10 and himself. So Bobby Joyce and Gasper Valenti, they were in They were armed. And the others in the other car 11 one car. 12 that was also going to participate in the robbery, but not 13 actually commit the armed robbery, itself, but be there as 14 backup, as a crash car, the people in that car were going to 15 be Jimmy Santos, Funzi and Dominic Cataldo. 16 Gasper Valenti had a .38 when he went on this score 17 and he was asked: Where did you get the gun? 18 He said: Vinny had given me the gun a long while 19 back. 20 Gasper Valenti told you that this score was in 21 Freeport, in Long Island, and he showed you the location where 22 they, ultimately, highjacked the truck. And this was a truck 23 that they had trailed. A Fed Ex truck that they knew to pick

up shipments of gold salts and they would follow it and try to

see if there was an easy way to stop it and where they could

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1 highjack it. And there was, at least, one failed attempt 2 where they followed the car and they couldn't find a place to 3 And they went back and Dominic Caltaldo especially was 4 really unhappy about that and got angry at Bobby Joyce because 5 he felt like there was a place they could have done it and he started yelling and screaming at Bobby Joyce over that, 6 7 Why didn't you do that while you were all there at 8 the stop sign? You could have done it. 9 (Exhibit published.) 10 Ultimately, they did go on the score and they 11 followed that same procedure. Bobby Joyce and Gasper Valenti, 12 as Valenti told you, were in one car and armed. And they 13 approached the Fed Ex driver as he was walking back to his 14 truck in this location in Freeport, Long Island. His truck, 15 his Fed Ex truck was parked along that sidewalk in the middle 16 of the screen toward the right side of the street and that's 17 where Gasper Valenti and Bobby Joyce approached the driver 18 and, basically, forced him into the truck and then drove him 19 to another location where they then unloaded the shipments in 20 the back of the truck that contained these valuable gold salts 21 that Gasper Valenti testified about, that he knew would be 22 val uabl e. (Exhibit published.)

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24 They managed to drive to a different location in 25 Long Island. That's where they unloaded the packages, and

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1 along the way Gasper Valenti got the name and address of the

- 2 victim, of the driver. Basically, as a tactic to make him not
- 3 want to go to the police because they knew his name and where
- 4 he lived. And his name was Joe, and he lived in Queens.
- 5 Eventually, they dropped the Fed Ex truck off at
- 6 Rockaway Avenue in Valley Stream, which is a separate town.
- 7 And before they left, they restrained him. They restrained
- 8 the driver so he couldn't leave the truck, but earlier along
- 9 in the ride they had him down in the front seat area, kind of
- 10 below where they were sitting in the front seat.
- So Valenti was asked about the process for turning
- 12 the gold salts into gold, and he talked about that it can be
- 13 done and that cyanide and poison and chemicals are involved in
- 14 this substance. And he talked about how Jimmy Santos had a
- 15 connection in the city to, basically, turn this material into
- 16 something valuable, turn it into gold. He even showed Gasper
- 17 Valenti a sample of what it turned into at the club by the
- 18 bank. And the defendant was there for that.
- 19 Following that meeting, after they had gotten the
- 20 substance and Jimmy Santos had taken it to Manhattan to make
- 21 it into something that they could actually use and that would
- 22 be valuable to them, following that meeting they had
- 23 additional meetings where they talked about getting the money
- 24 from the gold; about two or three, at most, Valenti testified.
- 25 And he was asked:

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1 How much did you get from that robbery? 2 He said he thought about a hundred, about \$197,000. 3 But he also testified that he believed the amount, the value 4 of what they stole was a little over a million dollars. 5 Valenti also testified that he provided or kicked up 6 money from that score within the Bonanno family. He gave the 7 defendant money, and then the defendant asked for another 8 \$5,000 above and beyond what Gasper Valenti had already given 9 And the defendant said: We got to give this guy 10,000. hi m. 10 And when he said "this guy," he indicated by touching his ear. 11 And Gasper Valenti testified that his understanding of what 12 that meant was that that guy was Joe Massino, who was above 13 him in organized crime within the Bonanno family at that time. 14 And so the other evidence you've heard about this 15 racketeering act confirmed what Gasper Valenti testified 16 You heard from a detective who was one of the 17 detectives assigned the case the night when the Federal 18 Express driver, his truck was highlacked and that he was left 19 restrained in the Fed Ex truck after the robbers left. You 20 heard how they were looking for two suspects for this armed 21 robbery, and, indeed, Bobby Joyce and Gasper Valenti were the 22 two who had approached him and actually highjacked the truck, 23 while the other three participants were in a separate car. 24 And you heard about from a representative of Dow Chemical, 25 Michael Tobin, he told you about what was stolen from the

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1 company where he worked at, LeaRonal, during this incident, 2 during this incident on February 27th, 1984. And you saw the 3 bills of lading from LeaRonal that showed what these shipments 4 were and how they were going to be sent to all these different 5 states in the United States if they had actually made it to 6 their destinations. And he talked to you about the value of 7 what that would have been worth back in February of 1984. 8 his calculation was just shy of a million dollars based on a 9 price index that he used that was a reliable source. 10 Michael Tobin also talked to you about the substance. You saw photographs of the truck that was recovered in the bottom 11 12 right that were taken by the crime scene unit for the Nassau 13 County Police Department. 14 (Exhibit published.) 15 You saw photographs of what Michael Tobin identified 16 as gold salts packaging that had the poison marker on the 17 And Michael Tobin, like I said, testified that the 18 approximate value of what was stolen from LeaRonal on 19 February 27, 1984 from a Fed Ex truck was \$918,822, 20 And that photo of the packaging was Government approximately. 21 Exhibit 141a. 22 You also heard cooperating witness testimony about

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asked who, if anyone, from the Colombo organized crime family

some of the participants in this score. You heard a little

bit about Dominic Caltaldo from Anthony Ruggiano.

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did you see the defendant spend time with, meaning Vinny 1 2 Asaro? And he answered Dominic Cataldo. 3 What, if any, position did Dominic Caltaldo hold in 4 the Colombo family? 5 He was a soldier. He was a made member of the 6 family. 7 And Anthony Ruggiano was also asked about other 8 crime families, specifically about someone named Alphonse 9 Tarricone or Funzi. He was asked what, if any, affiliation 10 with organized crime did Funzi have? 11 He was a soldier. 12 In what family? 13 I think he was in the Genovese family. 14 Did you ever see the defendant spend time with him? 15 Yeah. 16 You also saw additional crime scene photos of the 17 Fed Ex truck that was recovered after this robbery, and they 18 also corroborate what Valenti told you. 19 (Exhibit published.) 20 First of all, there were handcuffs recovered from 21 the seat that you can see in this photograph on the front 22 passenger side. And that's consistent with what Valenti

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testified about when he said that they restrained the driver

at the very end before they left him there in Valley Stream.

Detective Kopke also testified that's where the truck was

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1 recovered by police in that location, in Valley Stream. And 2 you also saw from this photo that there was space between the 3 two front seats which could have fit the driver when he was 4 crouching down the way Valenti testified he was when they 5 first abducted him. And there was also a cage separating the front seat area from the back, and Valenti testified about how 6 7 he was restrained when they left him and that's consistent 8 with his testimony on that subject. 9 There are also recordings that corroborate what 10 Valenti told you about this incident where the defendant 11 actually makes statements and Danny Rizzo makes statements 12 about the Fed Ex score, about the gold score from the '80s. 13 And what's interesting about these is that it comes out that 14 Danny Rizzo was aware of this incident, but he didn't 15 participate in it, which is exactly consistent with what 16 Valenti said to you about how Jimmy Santos first wanted to 17 take this score to Danny Rizzo and that he and his guys just 18 didn't make it happen. So he ended up taking it to Gasper 19 Valenti and Vinny Asaro. 20 So we can now play Government Exhibit 217f. 21 (Audio recording played.) 22 So this recording is a conversation MS. COOLEY: 23 between the defendant and Gasper Valenti where Gasper Valenti 24 talks about the possibility of him going back to that place

where they got this score. Basically, trying to rob that same

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1 company of gold salts. And they talk about it on this last

- 2 slide, what an ounce of gold might be worth today. In '84 at
- 3 the time of the robbery it was worse just shy of \$400, and now
- 4 they're saying could be as high as 1600 an ounce, so it could
- 5 be an even bigger score today. And they talk about in the
- 6 beginning Gasper Valenti says that it's located in Freeport
- 7 where he did this score and that he wants to go back to there
- 8 to see if they can do it again, and the defendant is
- 9 considering it and he says:
- 10 I don't remember where it is, I never went there.
- 11 You went there.
- 12 In other words, the defendant, like some of these
- 13 other crimes, didn't have to be the one going on the score, he
- 14 sent Gasper Valenti for that purpose, but he was fully
- 15 involved and aware and approved of it, especially because this
- 16 is how he made money. He had Gasper Valenti go commit scores
- 17 and then he got the proceeds. He did that here and he did
- 18 that in several other crimes that you've heard testimony
- 19 about. And so he is confirming that he knows of the incident,
- 20 he is not denying that this happened, and that he knew about
- 21 it and was involved, but he's saying that he didn't physically
- 22 go to the location, which is consistent with the testimony you
- 23 heard from Gasper Valenti. And he's confirming that Gasper
- 24 Valenti is the one who went in person to that location in
- 25 Freeport.

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1 So we can now play the next recording which is 2 Government Exhibit 221(c). 3 (Audio recording played.) 4 MS. COOLEY: So here Gasper Valenti and Danny Rizzo 5 are talking about different guys in organized crime who they 6 both knew and who went to jail, and they talk about Skinny Dom 7 you heard testimony about being associated with the Gambino 8 family; and they talk about Little Dom, meaning Dominic 9 Caltaldo, associated with the Colombo family and Jimmy Burke 10 and Jimmy Santos. And this is relevant because Jimmy Santos 11 and Little Dom participated in the Fed Ex score. 12 Rizzo, as I said before, was originally the one contemplated 13 to do this score that Jimmy Santos was going to bring it to. 14 So they're just discussing these people that they know and 15 that were involved in criminal activity with them, and 16 specifically that have some tie to this Fed Ex score. 17 So we can now listen to the next recording, which is 18 Government Exhibit 227 a. 19 (Audio recording played.) 20 So here Gasper Valenti is asking the MS. COOLEY: 21 defendant if he can ask Danny Rizzo about this score. 22 to get the defendant's permission to even ask the question. 23 And Danny, as you know, is a made member of the Luccheses and 24 Vinny, the defendant, is a made member of the Bonanno family, 25 but Gasper Valenti is an associate so he has to go through the

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1 defendant to even pursue a score like this. And he's also

- 2 saying, he's confirming that this is the Fed Ex score that
- 3 we've been talking about and that Jimmy Santos ended up taking
- 4 it from Danny.
- 5 So at the end the defendant says: Ask him.
- 6 Basically, ask Danny, see if you can get more information
- 7 about whether this could be a repeat, they could go back there
- 8 and get another score out of it.
- 9 So I'll now play the next recording which is
- 10 Government Exhibit 227a.
- 11 (Audi o recording played.)
- 12 MS. COOLEY: So in this conversation between Gasper
- 13 Valenti and Danny Rizzo and the defendant at the end who
- 14 joins, basically, Gasper and Danny get on the same page about
- which score they're talking about. There was another one
- 16 Danny was thinking of in the beginning, then he realizes it's
- 17 the one that he didn't go on, but he knows of it still and he
- 18 understands what Gasper Valenti is talking about when he
- 19 mentions the gold score involving Fed Ex.
- 20 And then at the end he suggests that he has a
- 21 contact who could find out where that was because they don't
- 22 remember the exact location of where they did it. And so he
- 23 is going to follow up with that person and get back to Gasper
- 24 Valenti. And at the end the defendant comes into the
- 25 conversation and asks: Does he remember? Gasper says: He

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could find out. Rizzo says: I could find out. And the
defendant asks him: Yes, please, go ahead and find out
because he wants to pursue this if he can figure it out.

So we are going to play Government Exhibit 229a.

(Audio recording played.)

6 MS. COOLEY: So this recording was from another date

7 in 2011, and Daniel Rizzo is still following up to figure out

8 if he can get that location to give back to the defendant and

9 Gasper Valenti for them to maybe pursue another score.

10 THE COURT: We'll do a break.

11 MS. COOLEY: Thank you, Your Honor.

12 (Jury exits.)

THE COURT: How much longer do you think you'll be?

14 MS. COOLEY: Your Honor, I feel like I may estimate

15 it wrongly, but I am hoping no more than an hour, and

16 hopefully less than that.

17 THE COURT: Well, would you try to pair it down in

18 the break?

19 MS. COOLEY: Yes, Your Honor.

20 (Recess taken.)

21 (In open court - jury not present.)

THE COURT: I understand they're coming.

MS. ARGENTIERI: Judge, can we approach?

24 THE COURT: Yes.

25 (Si debar held.)

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Si debar 3605

- 1 MS. MACEDONIO: We're worried about timing issues.
- THE COURT: I am worried about timing, too. I mean
- 3 this is really --
- 4 MR. MADIGAN: I mean, I'm certainly not trying to
- 5 rush you along, but I also don't want to be in a position
- 6 where I am getting rushed along starting with a jury that's
- 7 been sitting, if I start at 4:30, you know, I don't -- I don't
- 8 know if they want to stay late. I don't know how exhausted
- 9 they are already. It just seems like we have a whole host of
- 10 issues that are brewing.
- MS. ARGENTIERI: What I was hoping was if we could
- 12 get through the rest of ours in the next 45 minutes to an
- 13 hour, to the extent that we needed -- I mean I think everybody
- 14 wants us to be done today.
- 15 THE COURT: I thought, at least, the summations
- 16 could get done today. I must admit I'm really surprised that
- 17 we couldn't do it.
- MS. ARGENTIERI: You know, we had those technical
- 19 difficulties this morning and that's our fault.
- THE COURT: That was only a half hour.
- MS. ARGENTIERI: I know, but --
- 22 (Jury enters.)
- 23 (In open court jury present.)
- 24 THE COURT: Please be seated.
- 25 (Sidebar resumed.)

Si debar 3606

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I am not going to force you to go when
 1
               THE COURT:
 2
    there is not enough time and the jurors are exhausted, okay?
 3
               MS. MACEDONI O:
                                0h, okay.
 4
               MS. ARGENTIERI:
                                 Okay.
 5
               MR. MADIGAN: Thank you.
               (Si debar concluded.)
 6
 7
               (Continued on the following page.)
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1 (In open court.) 2 MS. COOLEY: May 1? 3 THE COURT: PI ease. 4 MS. COOLEY: We were talking about crimes where the 5 defendant doesn't go on the actual crime and is not present at the scene of the crime. There are ways that the defendant can 6 7 still be quilty of a crime in those circumstances, and I 8 wanted to clarify that quickly. 9 The defendant can agree that the crime is committed. 10 He can join the conspiracy or an agreement that has an 11 unlawful objective, and that's one way that he can be guilty 12 in those circumstances, and many of the crimes that we have 13 charged are conspiracies. He also can aid and abet the 14 commission of a crime. He can encourage it. He can help it 15 happen, help make it possible for it to happen. And he can 16 also receive profits on the back end, and be a part of it in 17 So, these are different ways that someone can be that sense. 18 culpable, and those are all embraced by many of the charges 19 that I have talk about today. I just wanted to clarify that. 20 Now, moving on, we just finished the proof of 21 Racketeering Act Seven, which was the robbery of the Federal 22 Express driver. We've proven that crime and the conspiracy to 23 commit that crime beyond a reasonable doubt. So, I will now 24 turn to Racketeering Act Eight.

Racketeering Act Eight charges the extortion of John

1 Zaffarano. He testified at this trial, and it relates to

- 2 proceeds of his pornography business, the properties
- 3 specifically in midtown Manhattan that you heard testimony
- 4 about. We proved this Racketeering Act beyond a reasonable
- 5 doubt, as well.
- 6 Now, I want to take a minute to go briefly over some
- 7 of the elements of these charges. These charges specifically
- 8 are extortion and extortion conspiracy. Again, the judge will
- 9 go over the law later as it applies to this.
- But just so you are aware, the federal extortion
- 11 charge has the following elements: The defendant obtained
- 12 property of another, that the property was obtained with the
- 13 victim's consent, but that consent was compelled by the
- 14 wrongful use or threat of force, violence or fear, and that as
- 15 a result of the defendant's actions, interstate or foreign
- 16 commerce or an item moving in interstate or foreign commerce
- 17 was delayed, obstructed or affected in any way or degree.
- 18 You're going to get more instructions on what these
- 19 elements mean. But when you talk about a threat of force,
- 20 violence or fear, that simply means a threat involving -- one
- 21 that's aimed at causing economic or physical injury, and it
- 22 may also be made by implication. "By implication" means one
- 23 that is not directly stated, but is understood from the
- 24 surrounding facts and circumstances.
- The extortion of John Zaffarano that's charged in

1 Racketeering Act Eight we proved through the testimony of John

- 2 Zaffarano and various public records.
- 3 As we already went over in connection with
- 4 Racketeering Act One, the testimony of these witnesses
- 5 established that shortly after John Zaffarano's father's
- 6 death, John Zaffarano began paying the defendant regularly on
- 7 that I oan that the defendant said had not been paid back, and
- 8 even after that, John Zaffarano took out additional loans or
- 9 an additional loan from the defendant that he paid interest on
- 10 relating to his business.
- 11 The fact that John Zaffarano was willing to pay this
- 12 I oan that didn't seem to be legitimate is another piece of
- 13 evidence you should take into consideration about what
- 14 happened later on, what his state of mind was, and basically
- 15 whether he was intimidated by the defendant into doing things
- 16 that maybe a person wouldn't otherwise do.
- 17 After Mickey Zaffarano di ed, John Zaffarano, his
- 18 son, took over his father's adult entertainment businesses in
- 19 New York City. He took over ownership of three properties in
- 20 Manhattan between 48th and 49th Streets on Broadway. As part
- 21 of these, businesses he purchased videotapes from a
- 22 distributor in California called VCX, and in 1986, he decided
- 23 to sell the property, because he got a really good offer. The
- 24 price was about 18.5 million
- So, this is testimony of Gasper Valenti relating to

- 1 that I oan that John Zaffarano paid after the defendant said it
- 2 was still outstanding, the loan that the father owed, which
- 3 was not true, and John Zaffarano testified that he did assume
- 4 that debt, and then these records that are in evidence as
- 5 Government's Exhibit 417 show the sale of the property that
- 6 John Zaffarano was then controlling for over \$18.4 million in
- 7 1986.
- 8 And John Zaffarano testified:
- 9 "QUESTION: What did he tell you that you had to
- 10 do?," meaning the defendant. And this relates to after the
- 11 sale of the property. There was a dispute about tenants in
- 12 the property not being happy with the way it was negotiated.
- 13 One of those tenants was Matty the Horse Lanniello, who was in
- 14 organized crime, a powerful organized crime member. And the
- 15 defendant basically got involved in negotiating whatever
- 16 resolution there would be with Matty the Horse. So, John
- 17 Zaffarano is talking about that.
- John Zaffarano says: "Well, he said that, you know,
- 19 he suggested that we pay them, that I pay him, because it's
- 20 not something that you mess around with.
- 21 "And he was referring to Matty lanniello?
- 22 "Yes.
- "What was Matty Lanniello asking for?
- "He was looking for a million, and we got him down
- 25 to 750."

1 John Zaffarano ended up paying the defendant after 2 this \$300,000 to \$400,000 from the sale of this property, and 3 the purpose was so that he could basically get away from the 4 defendant and move to Florida. In other words, he would be giving the defendant a nice chunk instead of \$10,000, and the 5 6 idea was to be left alone, essentially. And you saw that 7 Mr. Zaffarano seemed a little uncomfortable testifying at 8 trial and acknowledging the circumstances of these payments. 9 But you should take into account the amount of money that was 10 involved here and how much he was paying the defendant, A, and 11 ask yourselves, is it reasonable to think that someone, just 12 because they are a good cousin, would be shelling over 13 hundreds of thousands of dollars on multiple occasions out of 14 the goodness of their own heart? 15 Zaffarano did end up moving to Florida, but he still 16 had contact with the defendant and Gasper Valenti after that, 17 because they went down there to see him. He had businesses 18 down there, and eventually the defendant and Gasper Valenti 19 came knocking in Florida and asked for money, the defendant 20 asked for money, and John Zaffarano paid him \$250,000. 21 following that, Valenti testified that he personally went to 22 Florida to see Zaffarano, and that although Zaffarano said he 23 couldn't give a full million dollars, which is what the 24 defendant had asked for in connection with the property that 25 was sold, he said he could give \$500,000, which Valenti then

- 1 took and brought back with him to New York.
- 2 Valenti gave that money to the defendant, and the
- 3 defendant then wanted more. He demanded an additional
- 4 \$500,000. So, this is what Gasper Valenti testified to. And
- 5 these are just the records that show John Zaffarano and family
- 6 members moving to Florida in 1986. For John Zaffarano the
- 7 date he became a resident of Florida was in February 1986, and
- 8 this photo is Government's Exhibit 616-A, and this shows John
- 9 Zaffarano in front of the defendant's club at 74-50 101st
- 10 Avenue on May 13, 1986. This is after he had already moved to
- 11 Florida. He's now back in New York going to see the defendant
- 12 at the defendant's social club on 101st Avenue.
- And you remember the surveillance testimony from
- 14 this day that Special Agent H.J. Metts testified, that this
- 15 was the white male who was in the club just before Special
- 16 Agent Metts saw the defendant counting money in the club, and
- 17 there was testimony that John Zaffarano was paying the
- 18 defendant at that location.
- 19 So, ask yourselves, was he doing this, again, just
- 20 because he was a good cousin, coming all the way back up from
- 21 Florida and paying the defendant, or was it because he was
- 22 afraid of him and he wanted to do anything to get him off his
- 23 back, even if it meant shelling over hundreds of thousands of
- 24 dollars, possibly over a million.
- 25 And if you needed any more proof, there's a

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1 recording of the defendant discussing John Zaffarano which 2 confirms the way he preyed on him and the nature of their 3 rel ati onshi p. 4 (Tape plays.) 5 (Tape stops.) 6 MS. COOLEY: So, I'm now going to play some 7 additional recordings that show the way the defendant got 8 money off of people in his life. So, this is Government's 9 Exhibit 223-B. 10 (Tape plays.) 11 (Tape stops.) 12 MS. COOLEY: I'm now going to fast-forward to the 13 next recording, which is Government's Exhibit 239-C. 14 again, these are just instances of the defendant talking to 15 Gasper Valenti about ways that he managed to get money off of 16 people, the last one in connection with a check casher, where 17 checks had gone bad and he went to collect money in relation 18 to those checks. 19 (Tape plays.) 20 (Tape stops.) 21 MS. COOLEY: Government's Exhibit 239-C. 22 (Tape plays.) 23 (Tape stops.) 24 MS. COOLEY: John Zaffarano also testified that

there were times when he couldn't pay the defendant, and the

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defendant would call him and follow up, and sometimes would be

2 upset. He yelled and jumped up and down a little bit. That's

3 at page 2395 of the transcript.

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5 For all these reasons, we have proven Racketeering

6 Eight beyond a reasonable doubt.

7 I'll now turn to Racketeering Act Nine, which is the

8 extortion of Guy Gral to. Racketeering Act Nine charges the

9 defendant for his role in the extortion under both New York

10 State and federal law of the proceeds of an auto body business

11 from Guy Gral to in approximately 1993 to 1995. We've proven

12 there Racketeering Acts beyond a reasonable doubt, as well.

13 You heard directly from Guy Gralto, who was the

14 victim of this extortion. He told you that he opened up an

auto body business called Conduit Auto Parts, and you have the

16 certificate of incorporation for Conduit Auto Parts in

17 evidence. It showed it was incorporated in approximately

18 March of 1993.

19 After that business was opened, Mr. Gral to testified

20 that the defendant, who he knew from the neighborhood, who he

21 knew from growing up and was several years older than

22 Mr. Gralto, came to him with the expectation that he would

23 have gotten permission from the defendant to open up this

24 business, and they had a series of tense encounters with each

25 other.

1	Mr. Gralto testified that he started to understand
2	that the defendant wanted protection money from him. He
3	understood that the defendant was a wiseguy, meaning he was
4	affiliated with organized crime, though he didn't know what
5	specific Family. And he talked about how that neighborhood,
6	how Ozone Park, where Mr. Gral to had his chop shop and his
7	stolen auto parts business, how that was Mr. Asaro's
8	territory. That was the defendant's neighborhood, and he had
9	control over that neighborhood.
10	And there were incidents where the defendant became
11	violent and threatening toward Mr. Gralto. You heard about
12	when he drove his car into a fence that belonged to
13	Mr. Gralto and damaged it. You heard about the time where, in
14	the vicinity of the defendant's social club around that time,
15	the Triangle shop, in the '90s, located on that Triangle area
16	in Ozone Park, you heard that the defendant actually slapped
17	Mr. Gralto and told him that basically if he didn't start
18	paying him regular payments of protection money, that his
19	mother, Mr. Gralto's mother, wasn't going to be able to
20	identify his body based on what the defendant would do to it
21	After that, there were periods of time where
22	Mr. Gral to did acquiesce and started paying regular payments
23	to the defendant. He would pay him at his social club at the
24	Triangle shop. He would pay him at his restaurant in Long
25	Island, the Great Impasta, which you heard about and saw

- 1 photographs of.
- 2 And we have surveillance evidence that we showed
- 3 you, showing Mr. Gralto, either on video or in photographs,
- 4 going to the Triangle shop and meeting for mere moments with
- 5 the defendant, and then coming back out in the evenings. And
- 6 Mr. Gral to testified he never went to the defendant's
- 7 establishment to eat, to spend time with him. He only went
- 8 there to pay him, and he didn't want to be paying him. He was
- 9 expected to pay him these payments even when business was bad,
- 10 even when he was struggling financially.
- He tried to get out from under a few times by paying
- 12 a lump sum to the defendant of \$5,000. Mr. Gral to testified
- 13 that that didn't work. So, these are the types of evidence we
- 14 offered of this crime, and there are also recordings that you
- 15 heard.
- There were wiretap calls. Mr. Gral to's telephones
- 17 associated with his business and his residence at the time
- 18 were lawfully intercepted, and we played for you those calls
- 19 that show the defendant interacting with Mr. Gralto, and also
- 20 show him interacting with Vera Marino, who had a relationship
- 21 with Ronnie One Arm Trucchio, who was a member of the Gambino
- 22 Organized Crime Family, also operating in that area.
- And you'll hear on the recordings how Vera went to
- 24 Ronnie for help occasionally, and the defendant became
- 25 territorial over Mr. Gralto and that business of his. He

1 wanted that money. He didn't want Mr. Gral to through Vera or

- 2 on his own going to the Gambinos, going to Ronnie Trucchio.
- 3 He wanted to kind of control that situation, make sure he was
- 4 getting the end of that business.
- 5 So, we'll now go to the first recording.
- 6 (Tape plays.)
- 7 (Tape stops.)
- 8 MS. COOLEY: So, this is a recording from May 26 of
- 9 1994. It's Government's Exhibit 300 between Vera Marino and
- 10 the defendant, and he's telling Ms. Marino, That guy basically
- 11 can't do certain things. He can't avoid the defendant. And
- 12 he says, at the end, You know if he wants to entertain them
- down there, meaning the Gambinos, meaning Ronnie Trucchio and
- 14 entertain me, that ain't going to go. Basically, he has to
- 15 pick a side. He has to pick a Family.
- 16 We'll now turn to the next recording, which is
- 17 Government's Exhibit 300, as well.
- 18 (Tape plays.)
- 19 (Tape stops.)
- 20 MS. COOLEY: So, there, they are discussing how Guy
- 21 Gral to got robbed and shot during a time when he was not
- 22 paying protection money to the defendant. He was not around
- 23 the defendant in that way. The defendant is basically
- 24 commenting on that and says that he should have just stood
- 25 with the defendant, stayed with him, and those kind of things

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1 wouldn't happen to him. So, we'll play the final clip from 2 this exhibit. 3 (Tape plays.) 4 (Tape stops.) 5 MS. COOLEY: We'll now play the next recording, 6 which is Government's Exhibit 302. 7 (Tape plays.) 8 (Tape stops.) 9 MS. COOLEY: So. This is Guy Gral to speaking with 10 the defendant, setting up a time basically to go meet him and 11 This is also a recording from 1994. And also I will 12 mention that Mr. Gralto's auto body business involved, in 13 large part, foreign cars that they were dismantling and 14 selling the parts of. That's relevant for the foreign 15 commerce part of the federal extortion charge. 16 (Tape plays.) 17 (Tape stops.) 18 MS. COOLEY: We'll now move on to the next 19 recording, which is Government's Exhibit 306. 20 (Tape plays.) 21 (Tape stops.) 22 MS. COOLEY: Finally, you saw surveillance evidence 23 and you heard a recording that show Guy Gralto's employee at 24 that auto body business, a guy named Anthony Cola, went to

drop off a payment for Mr. Gralto, and he was seen leaving the

- 1 Great Impasta after doing that, meeting with Mr. Asaro there.
- 2 Based on all this evidence, I submit that we have
- 3 proven Racketeering Act Nine beyond a reasonable doubt.
- 4 We'll now turn to Racketeering Act Eleven. We're
- 5 going a little bit out of order. Racketeering Act Eleven
- 6 relates to the extortion or conspiracy to extort a business
- 7 associate of a girl named Tanya.
- 8 You heard about this crime from the testimony of
- 9 Gasper Valenti. He told you that he went with a man he
- 10 identified as Vinny Risotto to collect money for a girl Tanya,
- 11 who he knew to be the defendant's daughter, and this was
- 12 approximately in 2005 to 2006.
- 13 The reason for collecting this money, as Valenti
- 14 testified, was that the person they were going to try to
- 15 collect from, a business associate from Tanya, was doing
- 16 alterations in brownstones, and the guy that she was working
- 17 with owed her, owed Tanya, \$10,000 from certain projects and
- 18 did not want to pay up.
- 19 The defendant told Valenti all of this information,
- 20 and then Valenti agreed to go, at the defendant's direction,
- 21 to see that guy, that business associate, and collect the
- 22 money that Tanya was owed.
- The defendant then called Ronnie Giallanzo, his
- 24 nephew, also a made member in the Bonanno Organized Crime
- 25 Family, to ask him if he could send someone to go on this

1 collection with Gasper Valenti, and Ronnie Giallanzo asked

- 2 him, Do you want a brain or brawn? He chose Vinny Risotto,
- 3 who was a little bit of both.
- 4 Vinny Risotto and Gasper Valenti drove to the
- 5 location. The defendant had given them the address to go to,
- 6 the apartment number to go to, and the name of the business
- 7 associate. Though Gasper Valenti didn't remember the exact
- 8 name, he remembered it was a foreign name.
- 9 They went to that location. They got out of the
- 10 car. They knocked on the door. And Mr. Valenti testified
- 11 that he called the name of the person, which he doesn't
- 12 remember now, and they attempted to show that they were there
- 13 to talk to him, and there was no sign of the person being
- 14 around or responding. They then drove back and they told the
- 15 defendant about what happened. They hadn't been successful in
- 16 collecting it.
- 17 Gasper Valenti then later went with the defendant to
- 18 see Tanya, and the defendant told Valenti after he met with
- 19 Tanya that that guy they had gone to see, whose door they had
- 20 knocked on, ended up seeing Tanya after that and giving her
- 21 the money, and she also gave the defendant \$5,000. And
- 22 Mr. Valenti also testified about how the defendant had
- 23 borrowed money from Tanya. He had borrowed \$10,000.
- So, based on this evidence of the testimony of
- 25 Mr. Valenti, we submit that we have proven Racketeering Act

Eleven with respect to that extortion of -- attempted extortion, as well -- of the business associate of Tanya, the defendant's daughter. So, we'll now turn to Racketeering Act Ten, which is an illegal gambling bookmaking charge -- I'm sorry. Twelve. And this was in the time frame of September 1, 2007 to March 1, 2008. (Continued on next page.)

1 MS. COOLEY: (Continuing) 2 Just to briefly describe what the elements of this 3 This bookmaking relates, first of all, to a half 4 sheet or a betting sheet that Gasper Valenti testified about that he was on with the defendant and Jack Bonventre, who 5 you've already heard about earlier today, who was also a made 6 7 member of the Bonanno Family and was acting captain for Jerry 8 Asaro. 9 There are three elements to this illegal gambling 10 charge. First, that the gambling business violated New York 11 12 State law in the sense that there was unlawful accepting of 13 bets from the public as a business, rather than in a casual or 14 personal setting. 15 There has to be a substantially continuous operation 16 for at least 30 days or gross revenue of \$2,000 or more in any 17 one day. 18 And five or more persons, including the defendant, 19 conducted, financed, managed, supervised, directed or owned 20 the gambling business. 21 Of course you will hear more about this law from the 22 j udge. 23 You heard testimony about this gambling operation 24 from Jose Estrella, the former court officer, who told you 25 that he was one of the bettors in this operation. Valenti

- 1 told you that they had a bettor, Joe, meaning Jose Estrella,
- 2 and Joe previously bet with Mike Palmaccio, who is also a made
- 3 member of the Bonnano family who we saw in the recent
- 4 surveillances of the defendant including on that block where
- 5 Bams towing is located.
- 6 Joe had previously bet with Mike Palmaccio. When
- 7 Palmaccio couldn't pay out Joe's winnings, Joe looked to
- 8 Vinny, to the defendant, for help.
- 9 The defendant ultimately told Joe that he could get
- 10 him someone to bet with, because Joe still wanted to bet even
- 11 though he had had a bad experience with his last situation.
- 12 Valenti testified he was asked who were the other
- 13 partners in your half sheet who would have received the money.
- 14 Answer: The defendant and Jackie.
- 15 And you?
- 16 Yes.
- And he was asked when Joe, meaning Jose Estrella got
- 18 there, what did Vinny say to him?
- 19 He says go and talk to Gary.
- In other words, the defendant was putting Joe in
- 21 touch with Gary, to get him started in that illegal gambling.
- 22 You also heard from Jose Estrella about this. He
- 23 testified, I was introduced to the defendant to help me get my
- 24 winnings. Because he obviously hadn't gotten paid out his
- 25 winnings from the last situation with Mike Palmaccio.

1 He was asked: During the course of your 2 conversations what was the defendant doing? 3 Answer: He was basically running the meeting. 4 Estrella was asked, who introduced you to Gary? The answer was, the defendant. 5 You did not negotiate with him 6 Question: 7 immediately at that time? 8 Answer: No. 9 Meaning Gary Valenti, the two of them did not 10 negotiate immediately at that meeting because, as he testified, Valenti had to get back to him. In other words, he 11 12 had to go to the defendant and figure out what the answer was 13 and then get back to Joe because the defendant was calling the 14 shots in this operation. 15 And then Gasper Valenti was asked, for how long did 16 Joe bet with your gambling sheet? 17 The answer was, about seven weeks. 18 Jose Estrella was asked, how long did you engage in sports betting through that online website? 19 20 The answer was, probably about a little under two 21 months. 22 Estrella testified when asked, were you able to 23 immediately negotiate that with Gary? 24 Meaning Valenti. 25 His answer was, I told him a certain amount I can

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- 1 pay, and he said to slow down. We're not there yet. He's got
- 2 to even see -- if a payment plan is a viable option, that he
- 3 was going to get back to me.
- 4 He also said, I think I said to tell, to do whatever
- 5 he had to do, tell his people to do whatever he had to do.
- 6 And it is reasonable based on this evidence to infer
- 7 that his people was the defendant, the guy behind the guy who
- 8 was kind of running the show with this gambling operation.
- And so we will now play a recording that Government
- 10 Exhibit 230 -- can't read that. Sorry. One second.
- We are going to skip to the next slide and explain
- 12 how this offense has been proven beyond a reasonable doubt.
- 13 First, this was an international business operating
- 14 out of Costa Rica with thousands of dollars being transacted
- 15 over the Internet.
- 16 Second, Jose Estrella alone bet every week for seven
- 17 weeks, meaning for 49 days.
- He alone bet more than \$2,000 in a single day for
- 19 this operation.
- And, finally, the five or more people involved in
- 21 running this gambling business were the defendant, Gasper
- 22 Valenti, Jack Bonventre, and more than one person answering
- 23 the telephones at that office in Costa Rica.
- 24 And this Exhibit 654-A is a surveillance photograph
- of Gasper Valenti meeting with Estrella in connection with the

1 gambling business. 2 This is Government Exhibit 200-A. 3 (Plays; stops.) 4 This was a recording of Gasper Valenti speaking to 5 Jack Bonventre after the charged period of the gambling 6 business about his views on bettors and how they run to the 7 law and they refer specifically to Jose as one of their 8 bettors, who became a cop and they are concerned about people 9 running to the law and basically this backfiring on them, 10 their gambling business turning out to be a bigger problem for 11 them. 12 Based on all of this evidence, we have proven 13 racketeering act 12 beyond a reasonable doubt. 14 I will now turn to racketeering act ten. 15 I'm sorry. This is the recording we meant to play 16 earlier. This is Government Exhibit 248-F, still racketeering 17 act 12. 18 (Plays; stops.) 19 The evidence has shown for this act, racketeering 20 act 12, that the defendant sat down for Jose Estrella in his 21 meeting with Errol and Mike Palmaccio relating to the original 22 The defendant was the own who introduced Jose 23 Estrella to Gasper Valenti originally and that the defendant 24 dictated the payment plan that Gasper Valenti ultimately 25 conveyed to Estrella, a plan that Gasper Valenti had no

- 1 authority to negotiate alone because he reported to the
- 2 defendant. The defendant, again, called the shots and
- 3 dictated the terms.
- 4 So again, we have proven this act, racketeering act
- 5 12, beyond a reasonable doubt.
- 6 I will now turn to racketeering act ten, which is
- 7 another illegal gambling charge relating to an operation
- 8 between 1994 and 2002.
- 9 You heard about this operation from Sal Vitale when
- 10 he testified and from Gasper Valenti when he testified. Sal
- 11 Vitale testified about this bookmaking business that was in
- 12 operation in that earlier period, between '94 and 2002. He
- 13 told you about Sally Farrugia who was a captain in the Bonanno
- 14 Family, a bookmaker on Long Island. He died, Sal Farrugia, in
- 15 the early 1990s which Vitale testified about.
- And then Vitale said that after he died, he learned
- 17 about a sports business, an illegal gambling business that he
- 18 had had. He heard about it through the defendant and the
- 19 defendant told him that after Sally Farrugia died the
- 20 defendant went to see him and he said there was an individual
- 21 around him called Stretch. Stretch was the guy who ran
- 22 Farrugia's bookmaking business, which was a gigantic business
- 23 in Long Island. The defendant didn't want it to fall along
- the waysi de.
- Vitale explained that when a guy dies everything

- 1 reverts to his captain or to the family, and in this case to
- 2 Joe Massino who would decide where he wanted it to go.
- 3 So basically, in this conversation, Sal Vitale gave
- 4 the defendant permission to kind of take this gambling
- 5 business and run with it. He told the defendant, you service
- 6 Stretch, basically you reap the rewards of this gambling
- 7 business. Whatever money we make, I'll give you a piece of
- 8 it. If we are whacking up money, I'll give you a piece of it.
- 9 Joe is my partner, meaning Joe Massino.
- 10 So Vinny Asaro brought this to Sal Vitale, as he
- 11 testified, and there was a bookmaker named Stretch that was
- 12 involved in running this business who had been around Sally
- 13 Farrugia before Farrugia died.
- 14 In terms of what servicing Stretch meant, Vitale
- 15 explained in his testimony that he would oversee it. It meant
- 16 overseeing the business with Stretch. If Stretch had any
- 17 problems with collecting money from bettors or if he had any
- 18 beefs with another family, the defendant would handle it. So
- 19 he would both be handling any issues that came up for this
- 20 business and reaping the rewards.
- Vitale testified about what bookmaking is which
- 22 relates to this charge and the prior one we just discussed.
- 23 Bookmaking, as he said, are people who call a bookmaker and
- 24 bet, let's say the Jets against Minnesota or Giants over
- 25 Vikings and you are given a line and you place your bet.

1 So Sal Vitale and Joe Massino were partners in the 2 business and the defendant was also going to get a piece of 3 And the defendant was the one who was responsible for 4 collecting the money on a weekly basis is from Stretch. He 5 would bring the money directly to Sal Vitale, as Sal Vitale 6 testi fi ed. And Sal Vitale decided how much of a piece, how 7 much money the defendant would get from the business. 8 Now, there was a period of time in the nineties 9 where the defendant went to jail and at that time you heard 10 testimony that Jerry Asaro, the defendant's son, was the one 11 who took over servicing Stretch. Mr. Vitale didn't remember 12 how long Jerry Asaro had served in that capacity but he did it 13 for some period of time, also working and managing that 14 business for a period of time. 15 You also heard from Gasper Valenti who knew about 16 this bookmaking business. He was aware of Sally Farrugia's 17 involvement in it as well. And when Gasper Valenti came back 18 from a time period when he was in Vegas in 2005, he learned 19 that Stretch, the one running this business, was with the 20 defendant, was with Vinny Asaro. 21 So based on this testimony, we submit that we have 22 proven racketeering act ten, another illegal gambling charge, 23 beyond a reasonable doubt. 24 So we will now turn to racketeering act 13.

There is one recording that I will play very quickly for

```
1
    racketeering act ten. I will play it right now,
 2
    Exhi bi t 231-1.
 3
               ( Plays; stops.)
 4
              This is the defendant acknowledging who Sally
    Farrugia was and certain details relating to this business.
5
6
              Now I am going to move forward and discuss
7
    racketeering act 13, which is the state law extortion of
8
    Carmine Muscarella, who you heard testify.
9
              This extortion related to the property at 698 Drew
10
    Street in Brooklyn, which was associated with Carmine's
    stepfather and the godfather of Gasper Valenti, Thomas
11
12
    Valenti, also known as Dearie.
13
              And the property after Dearie died, or Thomas
    Valenti died, then went to Carmine Muscarella. He ultimately
14
15
    decided to sell the property and there were conversations that
16
    Gasper Valenti told you about between the defendant and Gasper
17
    Valenti and Carmine relating to that property, and the
18
    defendant wanted to get a piece of the proceeds of the sale of
19
    that property.
20
              The first conversation that Gasper Valenti had with
21
    the defendant after he had started cooperating was a phone
22
    call involving this extortion. I am going to turn to that
23
    conversation.
24
              Which is Government Exhibit 201.
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(Plays; stops.)

- That first call was on October 18, 2010. That was after Mr. Valenti received word that the defendant wanted to
- 3 talk to him through another person. The defendant is the one
- 4 that first brings up this issue of the sale of that property.
- 5 He initiates the conversation saying, what happened over there
- 6 with the house. Down the hole by Dearie, which is that
- 7 property that Thomas Valenti used to own.
- 8 So their conversation gets cut off. I will now play
- 9 the next phone call from that day, which is 202-A.
- 10 (Plays; stops.)
- 11 So here the defendant directs Gasper Valenti to call
- 12 and get in contact with Carmine Muscarella to see about
- 13 getting money from that house for the defendant. He says, why
- 14 should he screw us, meaning Carmine. Why should they not get
- 15 a piece of the proceeds of that house. He wants to send
- 16 Gasper Valenti in to do the dirty work here and try and get
- 17 some of that money, now that there is some sign of the
- 18 property being sold and there has to be some money to be had.
- 19 He suggests trying to get a nickel or seventy-five,
- 20 meaning five thousand or 7,500. I'm sorry. 2500 or 7500.
- I will now move to the next recording, which is
- 22 202-A.
- 23 (Plays; stops.)
- I will now turn to the next recording, which is
- 25 202-C.

```
1
               (Plays; stops)
 2
               So again, he's suggesting what money Valenti should
 3
    try to get from Carmine Muscarella related to that house and
 4
    he doesn't -- he's insinuating that he is not going to
5
    tolerate not getting anything.
 6
               I will now turn to the next recording, which is 203.
7
               (Plays; stops.)
8
               So they agree that Mr. Valenti is going to go see
9
    Carmine Muscarella and try to get this money from him.
10
               Turning to 204.
11
               (Plays; stops.)
12
               I will now play the next clip from 204.
13
               (Plays; stops)
14
               So this is the conversation in person between
    Valenti and Carmine Muscarella.
15
16
               (Plays; stops.)
               So this excerpt of that recording, Government
17
18
    Exhibit 204, shows how quickly Carmine Muscarella's attitude
19
    changes when he gets on the phone with the defendant.
20
    starts out being adamant, that he didn't promise any money
21
    from this house to the defendant or to Gasper Valenti.
                                                              He's
22
    really staying on that course and refusing to give it.
23
    he gets on the phone with the defendant and within seconds
24
    he's saying, how are we going to resolve this, how are we
25
    going to resolve this.
```

1 Then he asks if it's okay with the defendant if he 2 splits it in half. The amount that I guess was suggested, if 3 he splits that in half. So he's asking permission now to pay 4 a certain amount when before he got on the phone with the 5 defendant, he had no -- there was no sense that he was going to be willing to pay any money. 6 7 Now showing you this part of Government Exhibit 204. 8 (Plays; stops.) 9 You can hear in Carmine Muscarella's voice the 10 intimidation he feels towards the defendant. He's concerned, 11 we're good, we're good, when before he had no problem putting 12 Gasper Valenti in his place and telling him no. 13 Turn to the next recording, which is another portion 14 of 204. 15 (Plays; stops.) 16 Now I am going to play the next recording, which is 17 205. 18 (Plays; stops.) 19 So at this point the defendant and Gasper Valenti 20 talk about the plan to collect the money now from Carmine 21 Muscarella and even joke about going back again after that to 22 get more. 23 Playing now Government Exhibit 209-A. 24 (Plays; stops.) 25 So at this point Gasper Valenti has already met with

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- 1 Carmine Muscarella. That was on October 22, 2010. Carmine
- 2 Muscarella gave him a check for \$3,000 and Mr. Valenti cashed
- 3 that check with the FBI present. He brought the cash to the
- 4 defendant and the defendant let's him keep 500 of that. You
- 5 have seen the \$500 which is also in evidence.
- 6 And the check, there is a photograph of that check
- 7 here. It is Government Exhibit 651-E. You can see it made
- 8 out to Gasper Valenti, and here 651-A is a surveillance
- 9 photograph showing Gasper Valenti meeting with Carmine
- 10 Muscarella on the day when he gets the check from him,
- 11 October 22, 2010, and this is a photo of the property that
- 12 green fence indicating that the property had been sold.
- 13 You also know that the defendant then went back to
- 14 get more money from Carmine Muscarella after this and that he
- 15 had Gasper Valenti broker that situation by calling Carmine
- 16 Muscarella and saying that Vinny wanted to meet with Carmine
- 17 and then Vinny did meet with Carmine and ended up getting more
- 18 money from him on a subsequent date.
- 19 (Plays; stops.)
- Those recordings are also in evidence from that same
- 21 series. The phone calls between the defendant and Gasper
- 22 Valenti and then where the defendant follows up and let's him
- 23 know that he's gotten additional money from Carmine
- 24 Muscarella.
- 25 Based on these recordings, based on the surveillance

- 1 evidence, based on the defendant's own words, he says on the
- 2 recording subsequently with Gasper Valenti when he's the one
- 3 who is going to go meet Carmine Muscarella, that -- and Gasper
- 4 Valenti is giving him information about what Mr. Muscarella
- 5 looked like, and he says something like, you could be dead
- 6 30 years and I'd recognize you for money.
- 7 And that encapsulates the defendant's approach to
- 8 getting money from whoever he can and the way he preys on
- 9 people, whether they are complete strangers, whether they are
- 10 family members, whether they are acquaintances, he finds a way
- 11 to get money.
- Based on all this evidence, we submit that we have
- 13 proven to you racketeering act 13, the extortion of Carmine
- 14 Muscarella, beyond a reasonable doubt.
- 15 So we can now turn to racketeering act 14, which is
- 16 the extortionate collection of credit and extortionate
- 17 collection of credit conspiracy relating to Robert Cotrone or
- 18 Bam.
- 19 You know from the evidence presented at this trial
- 20 that Bam was an associate around Vincent Asaro, around the
- 21 defendant, until the defendant sold Bam to Jerry Asaro, his
- 22 son. Gasper Valenti told you about that. At page 1049 of the
- 23 transcript, he told you that Bam was previously around the
- 24 defendant. He was sold for \$25,000 to Jerry.
- 25 And Gasper Valenti explained to you what that means,

- 1 that basically if Bam was going to lend out money, if he was
- 2 going to put out loanshark money on the street, he had to put
- 3 that on record with the made member he was around in the
- 4 Bonanno Family.
- 5 You also heard recordings on which the defendant
- 6 stated that Bam was Loansharking partners with Jerry, with his
- 7 son, Jerry Asaro. That is on Government Exhibit 216.
- 8 The defendant was also talking about taking money
- 9 from Bam and hiding it from Jerry. You know that the
- 10 defendant also had a previous beef with the guy, Frankie from
- 11 the car wash, who was partners with the guy Vinny Car Wash,
- 12 both of whom had connections to the Gambino crime family.
- On Government Exhibit 221, which is the July 14,
- 14 2011 recording, the defendant talked about the \$4,500 debt
- 15 that Frankie from the car wash owed him and after that you
- 16 heard recordings of the defendant talking to Mike Palmaccio,
- 17 who is a made member of the Bonanno Family, about how the
- 18 idiot from the car wash was going to get deported.
- 19 You know who that's a reference to based on Special
- 20 Agent Robert Ypelaar testimony, that Vinny Ruggiero, who was
- 21 also known as Vinny Car Wash, because he had a car wash
- 22 business called Colony Car Wash, that he was not a US citizen
- 23 and that he had a case previously where he faced possible
- 24 deportation because of that.
- 25 (Continued on next page.)

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1 (Continuing) 2 MS. COOLEY: And he talked about that car wash being 3 on Rockaway Boulevard and that the arrest of Vinny Car Wash or 4 Vinny Frogiero that happened in 2001. And that's at pages 5 3295 to 3297 of the transcript. 6 You also know out of Robert Cotrone or Bam's own 7 mouth that he was in trouble with Jerry Asaro, the guy he 8 reported to in organized crime. During a December 7th, 2011 9 recording when Gasper Valenti wanted to borrow money from him, 10 Robert Cotrone told him: I am in so much trouble with Jerry, I can't give a dollar out without asking him. I did a deal 11 12 with Sandro while he was away and I didn't ask permission and 13 he F'ing ripped my ass out. He said if I give anybody an 14 F'ing dollar not only do I have a problem, I have a problem 15 with him. 16 So you already see the custom, basically, in organized crime that if an associate is loaning out loanshark 17 18 loans without permission, without putting it on record, that 19 can create problems with him; and that's what happened here 20 with Jerry Asaro. And then in March 2013, that was the last 21 The defendant told Valenti, Gasper Valenti on a 22 recording that Bam is a sneak. That he gave that kid Vinny 23 from the car wash \$70,000 and that he, the defendant, and 24 Jackie, meaning Jack Bonventre, are collecting on that money.

And, again, this relates to Bam giving out money,

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giving out a loan to someone, in this case Vinny Car Wash, who 1 2 we just talked about, who was not a U.S. citizen and who had 3 that car wash without getting the permission of his superior 4 in the crime family. You also heard about what's charged here, the extortion of Bam of Robert Cotrone, who was an 5 6 associate around Vinny until he sold him to Jerry. And we are 7 going to talk more about that in relation to a few recordings 8 that we'll play now. 9 First, these are some of the players in this crime. 10 The defendant is on the top level in the center. To his left 11 is Thomas DiFiore or Tommy D, also known as Tommy from Long 12 And he is a made member, who was acting as boss of 13 the family at the time of this crime. And to the right is 14 Jerome Asaro, who is the defendant's son, who was a captain in 15 the Bonanno family at the time. Below him is Jack Bonventre, 16 who was Jerry's acting captain and who the defendant mentions 17 on the recording when he says: Me and Jackie collecting, 18 getting money off of Bam. 19 Then you have John Ragano in the bottom left, who as 20 of around March 2013 was a newly-inducted soldier into the 21 Bonanno family. And in the middle of the bottom row is Robert 22 Cotrone, or Bam, who is the victim of this charge. And you 23 may remember seeing him on a surveillance conducted by the FBI 24 in which the defendant shows up at his auto body business and,

basically, talks to him, appears angry. Bam shows visible

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1 signs of being under stress and goes back into his office and 2 the defendant storms off. And Mike Palmaccio was also there 3 And that was a surveillance done in recent years by 4 the FBI that shows the nature of their dynamic, the nature of 5 their relationship and how Robert Cotrone made money for the 6 Bonanno family and was valuable in that way, but was also not 7 treated well in certain circumstances. And especially, the 8 defendant had that leverage over him to boss him around. 9 So this is a summary of the events of this crime. 10 Robert Cotrone or Bam made this unsanctioned Loanshark Loan of 11 about \$70,000 to Vinny Car Wash, who is affiliated with the 12 Gambino crime family. At a certain point in time Vinny Car 13 Wash is not paying Bam what was owed on that Ioan. 14 defendant became aware of this situation, and the unsanctioned 15 And the defendant, together with Jerry Asaro, Jack 16 Bonventre, Tommy DiFiore and John Ragano ultimately 17 intimidated and agreed to intimidate Bam into paying whatever 18 was collected on that loan that was owed to Bam, up to them. 19 Finally, the defendant personally collected money on that loan 20 in or about June of 2013, and he talked about that on a 21 recording with Gasper Valenti from June 11, 2013. 22 So we first play Government Exhibit 222. 23 (Audio recording played.) 24 So this recording was actually earlier MS. COOLEY:

It's from July 14th of 2011 -- I'm sorry, July 29th of

25

on.

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2011 and it shows, again, the dynamic between the defendant

2 and Bam and also the defendant's frustration over this idea

3 that Bam was telling people he was straightened out and that

4 he was a wiseguy, when he was just an associate.

5 Turning now to Government Exhibit 209t.

6 (Audio recording played.)

1

7 MS. COOLEY: So in this recording the defendant is

8 telling Gasper Valenti about how he successfully gets a lot of

9 money off of Bam, like thousands of dollars, and he says don't

10 tell Jerry, because Jerry is the guy that Bam reports to and

11 Jerry, the defendant's son, likely will be unhappy with that

12 situation, where his associate is being pressured into paying

13 money to someone that he's not around, to the defendant.

Now, I'll play Government Exhibit 222.

15 (Audi o recording played.)

MS. COOLEY: Here you see the defendant who is

17 normally careful in the way he phrases things and not

18 admitting to criminal things overtly catches himself saying I

19 shake him down, I shake Bam down, meaning I force him to give

20 me money. And then he's silent for a second and then corrects

21 himself and says he doesn't shake him down. But the nature of

22 their relationship and the way the defendant gets money off of

23 him is clear from these recordings.

I am going to move to the next exhibit which is

25 Government's 230a.

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1 (Audio recording played.) 2 MS. COOLEY: I just want to clarify that the case 3 involving Vinny Car Wash where he got arrested and faced 4 deportation was actually in 2011. 5 I will now fast forward to the next recording, so 6 that was a recording between the defendant and Mike Palmaccio, 7 and Palmaccio actually talked about having assaulted Bam and, 8 I'm sorry, Vinny Car Wash and they talk about him getting 9 deported and how INS was going to deport him. And so this is 10 the guy that Bam had Loaned money to, that he wasn't supposed 11 to I oan money to and then wasn't paying him back on that and 12 they saw that as an opportunity to collect. 13 Now, I'll play Government Exhibit 241a. 14 (Audio recording played.) 15 MS. COOLEY: So in this recording, which is from 16 March 8th, 2013, the defendant and Gasper Valenti talk about 17 who's recently been or who is being thought of to be 18 straightened out in the Bonanno family, and they took about 19 Bazoo, John Ragano. And the defendant says: We straightened 20 So he has now been inducted into the family and he's a soldier. And they talk about how they would not straighten 21 22 out Bam. 23 And now we'll move to the next recording, which is 24 241c.

(Audio recording played.)

1	MS. COOLEY: So here they are critical of Bam and
2	the defendant says that he, on the sneak, without permission
3	gave Vinny Car Wash \$70,000 and that he's been doing these
4	kind of loans that weren't approved of by conspirators in the
5	family with other people too. And this is the recording where
6	the defendant says: Me and Jackie collecting. Basically,
7	getting money from these Loans that Bam wasn't supposed to be
8	giving out and they're now kind of taking advantage of.
9	We will now play 242b.
10	(Audio recording played.)
11	MS. COOLEY: So the defendant greets John Ragano,
12	Bazoo, as my dear friend John, introduces him to another
13	friend Vinny, and in doing that he's acknowledging that he's
14	been inducted into the Bonanno family. And the first words
15	that Gary Valenti says to him are congratulations, which is
16	congratulating him for that as well.
17	(Audio recording resumed.)
18	MS. COOLEY: So this recording from March 26th of
19	2013 includes John Ragano asking the defendant in the
20	beginning when do we when do we stab this guy, basically?
21	When do we go after this guy, assault this guy?
22	And the defendant says: Stab him today, stab him
23	today. And he gives Ragano advice about going back to Bam,
24	that's who they're talking about, going back to him and
25	demanding that he fall in line. And, basically, they're

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1 trying to get the money that was lent out back by this guy
2 Vinny Car Wash. The defendant is giving advice in this

- g a same a same a g a g a same a same
- 3 conversation about how to do that most effectively and not let
- 4 this guy kind of sneak out of the obligation.
- 5 And they also talk about Mike Palmaccio, a soldier
- 6 in the family, and how he went online and was wearing this
- 7 shirt that said: A friend will help you move, a real friend
- 8 will help you move a body. And the defendant is upset about
- 9 that because it's almost like advertising for the mafia
- 10 online, and he's not about that. He's the opposite and he
- 11 likes to keep things under wraps, and so he is angry that this
- 12 is what the next generation of the mafia is doing online.
- 13 (Audio recording resumed.)
- MS. COOLEY: Your Honor, we are going to skip to the
- 15 next recording, if that's okay.
- 16 THE COURT: Okay.
- 17 MS. COOLEY: This is 242d.
- 18 (Audi o recording played.)
- 19 MS. COOLEY: So in that recording the defendant
- 20 talks about how he has no trouble abusing Bam in the front
- 21 office in front of everybody; and John Ragano, who works for
- 22 Bam at his business, says that he takes him in the back room,
- 23 at least. And they're kind of comparing how they abuse him.
- So we will now move on to, I believe, the last
- 25 recording, which is 243, from June 11th, of 2013. So this is

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1 242c. 2 (Audio recording played.) 3 MS. COOLEY: And so as Gasper Valenti testified in 4 this recording, he was asking the defendant about the money 5 that was divided up from the collection from Bam relating to 6 that I oan to Vinny Car Wash. And the defendant had shared 7 with him information about who was receiving money on that 8 collection, and the defendant was one of those people. And in this portion of the recording they're talking about Tommy 9 10 DiFiore, Tommy from Long Island, the boss, and he's now demanding a piece of whatever they're collecting. And he 11 12 says, the defendant says, he kept some money that might have 13 been for Tommy DiFiore, the defendant had kept that 4,000 for 14 himself. And now they're talking about an additional amount 15 of money that's coming in, this 30,000 and how Tommy DiFiore 16 took half of that and claimed that 15,000. And the defendant is very frustrated about that because he thought that he, 17 18 Jackie Bonventre and Jerry Asaro, his son, were going to split 19 that 30,000 evenly and now they've had to give half to Tommy 20 And then Tommy DiFiore is even asking him for 21 another two, another 2,000. And at the very end he, 22 basically, compares Tommy DiFiore to a prior Bonanno family 23 boss that you've heard testimony about, Joe Massino, and he 24 says, basically, that because Tommy DiFiore is taking so much

money from him that it makes Joe Massino look like Saint

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Anthony, it makes him look a lot better in comparison.
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               (Continued on the following page.)
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1 MS. COOLEY: So, these recordings confirm both the 2 efforts to collect money in connection with this unsanctioned 3 loan that Bam made to Vinny Car Wash, and the eventual 4 collection of money in connection with that from Bam. In June 5 2013, the defendant is talking about that money and how it's 6 being divided up. 7 Based on all of this evidence and the testimony you 8 heard and the surveillances you saw of Robert Cotrone, and all 9 of the recordings where the defendant talks about him and the 10 way that he takes money off of him and abuses him in front of 11 other people, and in the context of this specific dispute and 12 the unsanctioned loan, we've proven to you both the conspiracy 13 to extortionately collect from Robert Cotrone and the actual 14 extortionate collection of credit from Robert Cotrone as 15 alleged in Racketeering Act Fourteen, and we've proven that beyond a reasonable doubt. 16 17 That conduct is also charged differently in Counts 18 Two and Three, which are standalone counts. It relates to the 19 same conduct. It relates to the same extortionate activity in 20 collecting from Robert Cotrone. But there's a distinction 21 there, which the judge will instruct you about. 22 For the racketeering charges, the defendant has to 23 have agreed that he or someone else would commit those 24 racketeering acts, and that's the nature of the RICO

conspiracy. But for these Counts Two and Three, he has to

1 actually be involved as charged, and not just agree with

- 2 someone else to do it. That's the distinction. We have
- 3 proven he was personally involved in this collection and that
- 4 agreement or conspiracy to collect that money from Robert
- 5 Cotrone beyond a reasonable doubt, and for those reasons, you
- 6 should find that we have proven all three counts that are
- 7 charged beyond a reasonable doubt.
- I want to thank you for your attention today and
- 9 your patience. We've covered a lot of ground today, and in
- 10 the past three weeks, forty-five crime-filled years. You have
- 11 seen the Mafia at its darkest and its most sinister in these
- 12 last three weeks. And you have heard about the life of
- 13 Vincent Asaro, his upside-down values and his disturbing
- 14 choices, one of which robbed Paul Katz, a young father of five
- 15 children, of his life, and his family of their loved one and
- 16 their peace of mind forever.
- 17 The defendant murdered Paul Katz in 1969. There was
- 18 no justice for the Katz family over the next forty-four years,
- 19 and the defendant has continued to live his life since then,
- 20 believing that he is above the law, that he can get away with
- 21 murder, that he can terrorize people into paying him, whether
- 22 they are his relatives or complete strangers, that all he
- 23 needs to answer to is his Crime Family's traditions and his
- 24 own desire for money.
- 25 But even though it's been delayed for too long,

- 1 justice has still been reached. Trust the evidence we've
- 2 shown you and trust your judgment. From the evidence in this
- 3 case and the law that you have sworn to apply, there can be
- 4 but only one verdict in this case, and that is, guilty of all
- 5 counts.
- 6 Thank you.
- 7 THE COURT: Ladies and gentlemen, it's been a long
- 8 day, I know, so we are going to let you go for the weekend. I
- 9 feel reasonably confident that Monday, we'll complete the
- 10 summations and even the charge on the law.
- 11 All right. You have a good weekend. Don't talk
- 12 about the case. We'll see you back here on Monday morning.
- 13 Thank you.
- 14 (Jury excused.)
- MS. MACEDONIO: Can we approach?
- 16 THE COURT: Yes, you can.
- 17 (Si debar.)
- THE COURT: Do you still assume that you won't be
- 19 too long?
- MS. MACEDONIO: I think over the week, I'm going to
- 21 make it twice as long as it would have been today.
- 22 MS. FERRONE: Which is what I have begged her not to
- 23 do.
- 24 MS. MACEDONIO: Yes, I will not be too long.
- 25 THE COURT: So --

- 1 MS. MACEDONIO: Whatever that term means, I will not
- 2 be too long. An hour and-a-half, hour and forty-five.
- THE COURT: You said you were thinking a half hour?
- 4 MS. ARGENTIERI: I said a half hour.
- 5 MS. MACEDONIO: You said forty minutes or a half
- 6 hour.
- 7 THE COURT: Do you have any sense at all? I'm
- 8 trying to plan the day.
- 9 MS. MACEDONIO: I think an hour, hour and-a-half,
- 10 something along those lines.
- 11 THE COURT: I'm not going to hold you to it. I
- 12 promise.
- MS. MACEDONIO: I'm not topping the record.
- 14 THE COURT: You'll be about forty-five minutes?
- MS. ARGENTIERI: Yes.
- 16 MS. FERRONE: I need to raise a minor legal issue.
- 17 I will be as brief as possible.
- 18 Racketeering Act Eight in the indictment very
- 19 specifically alleges a Hobbs Act extortion conspiracy, Hobbs
- 20 Act extortion and extortion conspiracy as to John Doe Two,
- 21 which we all know is John Zaffarano. And the charged
- 22 conspiracy time is January 1, 1985 to January 1, 1989.
- During the closing, there was screen shots put up,
- 24 and the subject was Racketeering Act Eight, and it
- 25 says "General extortion." I would show your Honor those

- 1 screen shots, but they actually aren't included in the packet
- 2 handed to us. I'm not sure it rises to the level of a
- 3 constructive amendment or a variance, but it certainly
- 4 broadens the basis for liability with the presentation of
- 5 these recordings of general extortion that had nothing to do
- 6 with John Zaffarano.
- 7 I'm just raising it. I don't know if it's an issue.
- 8 Those screen slots are somewhat misleading. Like I say, they
- 9 say "Racketeering Act and general extortion," and clips were
- 10 played and not related to the charged --
- 11 THE COURT: I'm having a hard time absorbing what
- 12 you are saying. Would you write me a letter, please.
- 13 MS. FERRONE: Yes, your Honor. Can I request that I
- 14 get those screen shots that are missing from our pack?
- MS. ARGENTIERI: Actually, I was going to take that
- 16 back, because it has gone overnight or over the weekend.
- 17 don't think they need it to respond. We have not asked them
- 18 to give us copies of anything.
- 19 MS. MACEDONIO: You can have the packet back.
- 20 MS. ARGENTIERI: If I can respond? Ms. Cooley
- 21 didn't broaden anything when she was arguing. I don't know
- 22 what the screen shots said. But if you listen to what she
- 23 said, what she simply said, These are examples of other words
- 24 that the defendant used during other extortions. Those were
- 25 extortions that were produced during the trial for 404(b). I

- 1 don't think it's an issue.
- THE COURT: I think if you're actually going to make
- 3 this argument, read the transcript first.
- 4 MS. FERRONE: Absolutely. I'm merely preserving the
- 5 record for the defendant. That's it.
- 6 THE COURT: If there's something I have to deal
- 7 with, I would rather deal with it now, rather than not deal
- 8 it. Could you get the transcript, read it, make a decision as
- 9 to whether or not you're going to pursue some argument, and if
- 10 you do, get me a letter --
- 11 MS. FERRONE: Absolutely, your Honor.
- 12 THE COURT: -- by sometime tomorrow.
- MS. FERRONE: I will try. That may not be possible.
- 14 THE COURT: It can go to my law clerk, who will
- 15 forward it to me.
- MS. FERRONE: It depends when we get the transcript.
- 17 No pressure on the court reporters.
- 18 THE COURT: You can probably identify the segment
- 19 that you want quite simply, and that could be done first.
- 20 MS. FERRONE: Okay.
- 21 THE COURT: All right.
- 22 MS. MACEDONI 0: 9: 30?
- THE COURT: Yes.
- I had a couple of things.
- I think we uploaded the most recent or what we

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1
    thought was the final charge. It included the request that
 2
    you made that there was no objection from the defense. I
 3
    eliminated the charge on inconsistent statements because I
 4
    don't think there were any, and I eliminated the conspiracy on
5
    whichever Racketeering Act it was.
6
              MS. ARGENTIERI: Racketeering Act Nine, Gral to.
7
              THE LAW CLERK: That's not in that version.
8
             That still has to be done. It was after I uploaded
9
    that we spoke about that.
10
              MS. ARGENTIERI: It was very late this morning that
11
    you called your law clerk with that.
12
              THE COURT: I assume apart from that, everything
13
    else is fine, including the verdict sheet?
14
              MS. ARGENTIERI: Yes.
15
              THE COURT: Have a Lovely weekend.
16
               (Case adjourned to Monday, November 9, 2015 at
17
    9:30 a.m.)
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